

# FEDERAL REGISTER

THE NATIONAL ARCHIVES  
OF THE UNITED STATES  
1934

VOLUME 5      NUMBER 62

Washington, Friday, March 29, 1940

## Rules, Regulations, Orders

### TITLE 7—AGRICULTURE

#### CHAPTER 1—AGRICULTURAL MARKETING SERVICE

##### PART 105—BROOMCORN WAREHOUSES

By virtue of the authority vested in the Secretary of Agriculture by the United States Warehouse Act, approved August 11, 1916 (39 Stat. 490; 7 U.S.C. 268) as amended, I, H. A. Wallace, Secretary of Agriculture, do make, prescribe, publish and give public notice of the following regulations (Part 105 of Title 7 of Code of Federal Regulations) to be known as the regulations for warehousemen storing broomcorn, and to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture under said act. These regulations shall supersede all regulations issued under said act heretofore for broomcorn warehouses.

#### TABLE OF CONTENTS

Sec.	DEFINITIONS
105.1	Meaning of words.
105.2	Terms defined.
WAREHOUSE LICENSES	
105.3	Application forms.
105.4	Grounds for not issuing license.
105.5	Net assets required.
105.6	License shall be posted.
105.7	Suspension or revocation of warehouse licenses.
105.8	Return of terminated, suspended or revoked warehouse license.
105.9	Lost or destroyed warehouse license.
105.10	Unlicensed warehousemen must not represent themselves as licensed.
WAREHOUSE BONDS	
105.11	Time of filing.
105.12	Basis of amount of bond; additional amounts.
105.13	Amendment of license.
105.14	New bond required each year.
105.15	Approval of bond.
WAREHOUSE RECEIPTS	
105.16	Contents of receipts.
105.17	Copies of receipts.
105.18	Lost or destroyed receipts; bond for.
105.19	Approval of form of receipt.
105.20	Partial delivery of broomcorn.
105.21	Return of receipts before delivery of broomcorn.

Sec.	
105.22	Signatures of persons authorized to direct delivery to be filed with warehouseman.
105.23	Omission of grade; no compulsion by warehouseman.
DUTIES OF LICENSED WAREHOUSEMAN	
105.24	Broomcorn ineligible for storage.
105.25	Insurance requirements.
105.26	Premiums; inspections; reports.
105.27	Care of broomcorn in storage.
105.28	Care of nonlicensed broomcorn or other commodities.
105.29	Records to be kept in safe places.
105.30	Warehouse charges.
105.31	Business hours.
105.32	Numbered tags to be attached to bales.
105.33	System of accounts.
105.34	Reports.
105.35	Copies of reports to be kept.
105.36	Canceled receipts; auditing.
105.37	Inspections and examinations of warehouses.
105.38	Inspection of weighing apparatus.
105.39	Warehouse to be kept clean.
105.40	Warehouse to be kept light.
105.41	Care in storage.
105.42	Excess storage.
105.43	Removal of broomcorn from storage.
105.44	Signatures of persons to sign receipts to be filed with department.
105.45	Fire loss to be reported by telegraph.
105.46	Copies of inspection, grade or weight certificates to be filed.
FEES	
105.47	Warehouse license fees.
105.48	Warehouse inspection fees.
105.49	Advance deposit.
105.50	Return of excess deposit.
LICENSED INSPECTORS, GRADERS AND WEIGHERS	
105.51	Application forms.
105.52	Examination of applicant.
105.53	Posting of license.
105.54	Duties of licensees.
105.55	Inspection certificates; form.
105.56	Grade certificate; form.
105.57	Weight certificate; form.
105.58	Combined inspection, grade and weight certificate.
105.59	Copies of certificates to be kept.
105.60	Licenses to permit and assist in examination.
105.61	Reports.
105.62	Licenses-Suspension; revocation.
105.63	Return of suspended or revoked licenses. Termination of license.
105.64	Lost or destroyed licenses.
105.65	Unlicensed inspector or weigher; misrepresentation.
BROOMCORN CLASSIFICATION	
105.66	Variety, grade, and condition; statement of
105.67	Standards to be used.
105.68	Grade and condition to be based on whole bale.

## CONTENTS

### RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:	Page
Agricultural Marketing Service:	
Warehousemen storing broomcorn, regulations.....	1205
TITLE 26—INTERNAL REVENUE:	
Bureau of Internal Revenue:	
Gauging Manual, 1938.....	1214
TITLE 25—INDIANS:	
Office of Indian Affairs:	
Operation and maintenance charge orders amended:	
Crow Indian Irrigation Project, Mont.....	1213
Fort Hall Indian Irrigation Project, Idaho.....	1213
San Carlos Project, Ariz., tribal and trust patent Indian lands.....	1213
Wind River Indian Irrigation Project, Wyo.....	1213
TITLE 49—TRANSPORTATION AND RAILROADS:	
Interstate Commerce Commission:	
Motor vehicle carriers, contract filing date postponed.....	1226

### NOTICES

Department of Agriculture:	
Federal Surplus Commodities Corporation:	
Surplus food stamp program, amended designation of area .....	1228
Department of the Interior:	
Bituminous Coal Division:	
Distributors' discounts, etc.; rules for resale of coal:	
Order relative to findings and recommendations of trial examiner.....	1227
Procedure to be followed....	1227
Department of Labor:	
Wage and Hour Division:	
Issuance of certificates for employment of learners in various industries (2 notices) .....	1228, 1229

(Continued on next page)





Published daily, except Sundays, Mondays, and days following legal holidays by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500), under regulations prescribed by the Administrative Committee, approved by the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the **FEDERAL REGISTER** will be furnished by mail to subscribers, free of postage, for \$1.25 per month or \$12.50 per year; single copies 10 cents each; payable in advance. Remit money order payable to the Superintendent of Documents directly to the Government Printing Office, Washington, D. C.

### CONTENTS—Continued

Federal Communications Commission:	Page
Telegraph carrier pick-up and delivery service investigation.....	1229
Securities and Exchange Commission:	
Hearings:	
Great Lakes Utilities Co.....	1230
Producers Corp.....	1230
Trustees under Declaration of Trust of November 27, 1935 (Franklin T. Griffith, et al.).....	1231
United Light and Power Co., et al.:	
Hearings (2 notices).....	1230, 1231
Notice of filing of declaration.....	1232

### Sec.

105.69	Statement of grade.
105.70	Statement of condition.

### ARBITRATIONS

105.71	Broomcorn arbitrations; committee; proceedings.
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### MISCELLANEOUS

105.72	Bonds required.
105.73	Publications.
105.74	Information of violations.
105.75	Procedure in hearings.
105.76	One document and one license to cover several products.
105.77	Amount of assets and bond needed for combination warehouses.
105.78	Amendments.

### DEFINITIONS

§ 105.1 *Meaning of words.* Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 105.2 *Terms defined.* For the purpose of these regulations, unless the context otherwise require, the following terms shall be construed, respectively, to mean:

(a) *The act.* The United States Warehouse Act, approved August 11, 1916 (39 Stat. 486; 7 U.S.C. 241-273) as amended.

(b) *Person.* An individual, corporation, partnership, or two or more persons having a joint or common interest.

(c) *Secretary.* The Secretary of Agriculture of the United States.

(d) *Chief of the Service.* The Chief of the Agricultural Marketing Service.

(e) *Designated representative.* The Chief of the Agricultural Marketing Service of the United States Department of Agriculture.

(f) *Regulations.* Rules and regulations made under the act by the Secretary.

(g) *Service.* The Agricultural Marketing Service of the United States Department of Agriculture.

(h) *Warehouse.* Any building, structure, or other protected inclosure licensed or to be licensed under the act, in which broomcorn is or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which broomcorn is or may be stored.

(i) *License.* A license issued under the act by the Secretary.

(j) *Warehouseman.* Any person lawfully engaged in the business of storing broomcorn, who holds an effective warehouseman's license under the act, or who has applied for such a license.

(k) *Licensed warehouse.* A warehouse for the conduct of which a license has been issued.

(l) *Licensed warehouseman's bond.* A bond required to be given under the act by a licensed warehouseman.

(m) *Licensed inspector.* A person licensed under the act by the Secretary to inspect, to sample, and to certificate the variety and condition of broomcorn, including its baling.

(n) *Licensed grader.* A person licensed under the act by the Secretary to grade and to certificate the grade of broomcorn stored or to be stored in a licensed warehouse.

(o) *Licensed weigher.* A person licensed under the act by the Secretary to weigh and certificate the weight of broomcorn stored or to be stored in a licensed warehouse.

(p) *Condition.* Any state of broomcorn which is not covered by variety or grade and which has a material bearing on its value, including its keeping quality.

(q) *Grade.* That combination of factors such as length, color, fiber and other elements which will show the quality of the broomcorn.

(r) *Properly baled.* A well-made bale bound by five strong wires securely fastened and at least two tie wires so fastened to the outer band wires as to hold them from slipping.

(s) *Bale.* A bale of broomcorn.

(t) *Damaged broomcorn.* Any portion of a bale other than the exterior which is unfit for use due to heating, mold, rot, or other causes.

(u) *Sticks.* Stemmy broomcorn with little or no fiber.

(v) *Crooks.* Broomcorn which became bent in a U or similar shape while growing.

(w) *Trash.* Leaves, roots or other worthless material incident to harvesting.

(x) *Receipt.* A warehouse receipt.

(y) *State.* A State, Territory, or District of the United States.

### WAREHOUSE LICENSES

§ 105.3 *Application forms.* Applications for licenses under sections 4 and 9 of the act (46 Stat. 1463, 1464; 7 U.S.C. 244, 248) and for modifications or extensions of licenses under section 5 of the act (42 Stat. 1282; 7 U.S.C. 245) shall be made to the Secretary upon forms prescribed for the purpose and furnished by the Service, shall be in English, shall truly state the information therein contained, and shall be signed by the applicant. The applicant shall at any time furnish such additional information as the Secretary or the Chief of the Service shall find to be necessary to the consideration of his application by the Secretary.

§ 105.4 *Grounds for not issuing license.* A license for the conduct of a warehouse shall not be issued if it be found by the Secretary, or his designated representative, that the warehouse is not suitable for the proper storage of broomcorn, that the warehouseman is incompetent to conduct such warehouse in accordance with the act and these regulations, or that there is any other sufficient reason within the purposes of the act for not issuing such license.

§ 105.5 *Net assets required.* The warehouseman conducting a warehouse licensed or for which application for license has been made under the act, shall have and maintain above all exemptions and liabilities, net assets liable for the payment of any indebtedness arising from the conduct of the warehouse, to the extent of at least \$2 per bale of the maximum number of bales of broomcorn that the warehouse will accommodate when stored in the manner customary to the warehouse for which such assets are required, as determined by the chief of the Service, except that the amount of such assets shall not be less than \$5,000 and need not be more than \$100,000. In case such warehouseman has applied for licenses to conduct two or more warehouses in the same State, the assets applicable to all of which shall be subject to the liabilities of each, such warehouses shall be deemed to be one warehouse for the purposes of the assets required under this section. For the purposes of this section only, paid-in capital stock, as such, shall not be considered a liability. Any deficiency in the required net assets may be supplied by an increase in the amount of the warehouseman's bond in accordance with § 105.12 (b).



§ 105.6 *License shall be posted.* Immediately upon receipt of his license, or of any modification or extension thereof under the act, the warehouseman shall post the same, and thereafter, except as otherwise provided in these regulations, keep it posted until suspended or terminated, in a conspicuous place in the principal office where receipts issued by such warehouseman are delivered to depositors.

§ 105.7 *Suspension or revocation of warehouse licenses.* Pending investigation, the Secretary, or his designated representative, whenever he deems necessary, may suspend a warehouseman's license temporarily without hearing. Upon written request and a satisfactory statement of reasons therefor, submitted by a warehouseman, the Secretary, or his designated representative, may, without hearing, suspend or revoke the license issued to such warehouseman. The Secretary, or his designated representative, may, after opportunity for hearing when possible has been afforded in the manner prescribed in this section, revoke a license issued to a warehouseman when such warehouseman (a) is bankrupt or insolvent; (b) has parted, in whole or in part, with his control over the licensed warehouse; (c) is in process of dissolution or has been dissolved; (d) has ceased to conduct such licensed warehouse; or (e) has in any other manner become non-existent or incompetent or incapacitated to conduct the business of the warehouse. Whenever any of the conditions mentioned in subdivisions (a) to (e) shall come into existence, it shall be the duty of the warehouseman to notify immediately the chief of the Service of the existing condition. Before a license is revoked for any violation of, or failure to comply with, any provision of the act or of these regulations, or upon the ground that unreasonable or exorbitant charges have been made for services rendered, the warehouseman involved shall be furnished by the Secretary, or by an official of the Department of Agriculture designated for the purpose, a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be afforded in accordance with § 105.75.

§ 105.8 *Return of terminated, suspended or revoked warehouse license.* In case a license issued to a warehouseman terminates or is suspended or revoked by the Secretary, or his designated representative, such license shall be returned to the Secretary. At the expiration of any period of suspension of such license, unless it be in the meantime revoked, the dates of the beginning and termination of the suspension shall be indorsed thereon, it shall be returned to the warehouseman to whom it was originally issued and it shall be posted as prescribed in § 105.6a: *Provided*, That in the discretion of the chief of

the Service a new license may be issued without reference to the suspension.

§ 105.9 *Lost or destroyed warehouse license.* Upon satisfactory proof of the loss or destruction of a license issued to a warehouseman, a duplicate thereof may be issued under the same number.

§ 105.10 *Unlicensed warehousemen must not represent themselves as licensed.* No warehouse or its warehouseman shall be designated as licensed under the act and no name or description conveying the impression that it or he is so licensed shall be used, either in a receipt or otherwise, unless such warehouseman holds an unsuspended or unrevoked license for the conduct of such warehouse.

#### WAREHOUSE BONDS

§ 105.11 *Time of filing.* Unless the warehouseman has previously filed with the Secretary the bond required by § 105.12 of this regulation, he shall file such bond within a time, if any specified by the Secretary, or his designated representative, said bond to cover all obligations arising thereunder during the period of the license.

§ 105.12 *Basis of amount of bond; additional amounts.* (a) Exclusive of any amount which may be added in accordance with paragraphs (b) and (c) of this section, the amount of such bond shall be at the rate of \$2 per bale of the maximum number of bales that the warehouse will accommodate when stored in the manner customary to the warehouse for which such bond is required, as determined by the chief of the Service, but not less than \$5,000 nor more than \$50,000. In case a warehouseman has applied for licenses to conduct two or more warehouses in the same State, the assets applicable to all of which shall be subject to the liabilities of each, and shall desire to give a single bond meeting the requirements of the act and these regulations for the said warehouses, such warehouses shall be deemed to be one warehouse for the purposes of the bond required under §§ 105.11-105.15.

(b) In case of a deficiency in net assets under § 105.5 there shall be added to the amount of the bond fixed in accordance with paragraph (a) of this section an amount equal to such deficiency.

(c) In case the Secretary, or his designated representative, finds the existence of conditions warranting such action, there shall be added to the amount fixed in accordance with paragraphs (a) and (b) of this section a further amount, fixed by him, to meet such conditions.

§ 105.13 *Amendment of license.* In case an application is made under § 105.3 for an amendment of a license and no bond previously filed by the warehouseman under this regulation covers obligations incurred during the period of such amendment, the warehouseman shall, when notice has been given by the Secretary, or his designated representative, that such amendment will

be granted upon compliance by such warehouseman with the act, file with the Secretary, within a time, if any, fixed in such notice, a bond complying with the act, unless bond in sufficient amount has been filed since the filing of such application. In the discretion of the Secretary, a properly executed instrument in form approved by him, amending, extending, or continuing in force and effect the obligations of a valid bond previously filed by the warehouseman and otherwise complying with the act and these regulations may be filed in lieu of a new bond.

§ 105.14 *New bond required each year.* Whenever a license has been issued for a period longer than one year, such license shall not be effective beyond one year from its effective date unless the warehouseman shall have filed a new bond in the required amount with, and such bond shall have been approved by, the Secretary, or his designated representative, prior to the date on which said license would have expired had it been issued for but one year, subject to the provisions of § 105.13.

§ 105.15 *Approval of bond.* No bond, amendment, or continuation thereof shall be accepted for the purposes of the act and these regulations until it has been approved by the Secretary, or his designated representative.

#### WAREHOUSE RECEIPTS

§ 105.16 *Contents of receipts.* (a) Every receipt, whether negotiable or non-negotiable, issued for broomcorn stored in a licensed warehouse shall, in addition to complying with the requirements of section 18 of the act (42 Stat. 1284; 7 U.S.C. 260) embody within its written or printed terms the following: (1) the name of the licensed warehouseman and the designation, if any, of the warehouse; (2) the license number of the warehouse; (3) a statement whether the warehouseman is incorporated or unincorporated, and, if incorporated, under what laws; (4) the tag number given to each bale of broomcorn in accordance with § 105.32; (5) a statement conspicuously placed, whether or not the broomcorn is insured, and, if insured, to what extent, by the warehouseman against loss by fire, lightning, and tornado; (6) a blank space designated for the purpose in which the condition shall be stated; (7) a blank space designated for the purpose in which variety shall be stated; (8) the crop year in which the broomcorn was grown; (9) the words "Nonnegotiable" or "Negotiable" according to the nature of the receipt, clearly and conspicuously printed or stamped thereon; and (10) in the event the relationship existing between the warehouseman and any depositor is not that of strictly disinterested custodianship, a statement setting forth the actual relationship.

(b) Every receipt, whether negotiable or nonnegotiable, issued for broomcorn stored in a licensed warehouse shall



specify a period, not exceeding one year, for which the broomcorn is accepted for storage under the act and these regulations, but, upon demand and the surrender of the old receipt by the lawful holder thereof at or before the expiration of the specified period, the warehouseman, upon such lawful terms and conditions as may be granted by him at such time to other depositors of broomcorn in the warehouse, shall issue a new receipt for a further specified period not exceeding one year, or, if he continues to act as a public warehouseman but not as a licensed warehouseman, issue a new nonlicensed receipt; provided, it is actually determined that there has been no deterioration in the quality of the broomcorn.

(c) Every receipt issued for broomcorn stored in a licensed warehouse shall, in addition to complying with the requirements of paragraphs (a) and (b) of this section, embody within its written or printed terms the following: (1) If the broomcorn covered by such receipt was inspected by a licensed inspector, graded by a licensed grader or weighed by a licensed weigher, a statement to that effect; (2) a form of indorsement which may be used by the depositor or the lawful holder of the receipt or the authorized agent of either for showing the ownership of, and liens, mortgages, or other encumbrances on, the broomcorn covered by the receipt.

(d) Whenever the grade or other class of the broomcorn is required to be, or is, stated in a receipt issued for broomcorn stored in a licensed warehouse, such grade or other class shall be stated in the receipt in accordance with §§ 105.66-105.70.

(e) If a warehouseman issues a receipt omitting the statement of grade on request of the depositor, such receipt shall have clearly and conspicuously stamped or written on the face thereof the words "Not graded on request of depositor."

(f) If a warehouseman issues a receipt under the act omitting any information not required to be stated, for which a blank space is provided in the form of the receipt, a line shall be drawn through such space to show that such omission has been made by the warehouseman.

§ 105.17 *Copies of receipts.* If copies are made of receipts, all such copies, except those issued in lieu of the original in case of lost or destroyed receipts, shall have clearly and conspicuously printed or stamped thereon the words "Copy—Not Negotiable". If copies are not made then skeleton copies bearing the same numbers as the corresponding original receipts shall be made, but such skeleton copies need not be marked "Copy—Not Negotiable".

§ 105.18 *Lost or destroyed receipts; bond for.* (a) In the case of a lost or destroyed receipt, if there be no statute of the United States or law of a State applicable thereto, a new receipt upon the same terms, subject to the same conditions, and bearing on its face the num-

ber and the date of the receipt in lieu of which it is issued and a plain and conspicuous statement that it is a duplicate issued in lieu of a lost or destroyed receipt, may be issued upon compliance with the conditions set forth in paragraph (b) of this section.

(b) Before issuing such duplicate receipt the warehouseman shall require the depositor or other person applying therefor to make and file with the warehouseman (1) an affidavit showing that he is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it, how the original receipt was lost or destroyed, and, if lost, that diligent effort has been made to find the receipt without success, and (2) a bond in an amount double the value, at the time the bond is given, of the broomcorn represented by the lost or destroyed receipt. Such bond shall be in a form approved for the purpose by the Secretary, or his designated representative, shall be conditioned to indemnify the warehouseman against any loss sustained by reason of the issuance of such duplicate receipt, and shall have as surety thereon (1) a surety company which is authorized to do business, and is subject to service of process in a suit on the bond, in the State in which the warehouse is located, or (2) at least two individuals who are residents of such State and each of whom owns real property therein having a value, in excess of all exemptions and encumbrances, to the extent of double the amount of the bond.

§ 105.19 *Approval of form of receipt.* No receipt shall be issued by a licensed warehouseman except it be (1) in form prescribed by the chief of the Service; (2) upon distinctive paper specified by him; (3) printed by a printer with whom the United States has a subsisting contract and bond for such printing, and (4) on paper manufactured by and procured from a manufacturer with whom the United States has a subsisting contract and bond for the manufacture of such paper.

§ 105.20 *Partial delivery of broomcorn.* If a warehouseman delivers part only of a lot of broomcorn for which he has issued a negotiable receipt under the act, he shall take up and cancel such receipt and issue a new receipt in accordance with these regulations for the undelivered portion of the broomcorn on which shall be stated the date of the receipt first issued by the warehouseman to cover the lot of which the undelivered portion forms a part.

§ 105.21 *Return of receipts before delivery of broomcorn.* Except as permitted by law or by these regulations, a warehouseman shall not deliver broomcorn for which he has issued a negotiable receipt until the receipt has been returned to him and canceled, and shall not deliver broomcorn for which he has issued a nonnegotiable receipt until such receipt has been returned to him or he has obtained from the person lawfully

entitled to such delivery, or his authorized agent, a written order therefor.

§ 105.22 *Signatures of persons authorized to direct delivery to be filed with warehouseman.* Each person to whom a nonnegotiable receipt is issued shall furnish the warehouseman with a statement in writing indicating the person or persons having power to authorize delivery of broomcorn covered by such receipt, together with the bona fide signature of such person or persons. No licensed warehouseman shall honor an order for the release of broomcorn covered by a nonnegotiable receipt until he has first ascertained that the person issuing the order has authority to order such release and that the signature of the releasing party is genuine; provided that if the holder of such nonnegotiable receipt agrees in writing to hold blameless both the warehouseman and bondsman for any loss that might result from improper delivery through receipt of an unauthorized telegram, deliveries may be made on receipt of telegraphic orders to be followed immediately with usual confirmation order.

§ 105.23 *Omission of grade; no compulsion by warehouseman.* No warehouseman shall, directly or indirectly by any means whatsoever, compel or attempt to compel the depositor of any broomcorn in his warehouse to request the issuance of a receipt omitting the statement of grade.

#### DUTIES OF LICENSED WAREHOUSEMAN

§ 105.24 *Broomcorn ineligible for storage.* A warehouseman shall not receive for storage in his licensed warehouse any broomcorn that is wet, sappy, improperly baled, damaged, or that contains more than 10 per cent by weight of seed, or that contains more than 5 per cent by weight of trash, nor shall he accept any broomcorn containing crooks or sticks unless such crooks or sticks are separately baled and in such cases the receipts shall be plainly marked "Crooks" or "Sticks", as the case may be.

§ 105.25 *Insurance requirements.* (a) Each licensed warehouseman, when so requested in writing as to any broomcorn by the depositor thereof or lawful holder of the receipt covering such broomcorn, shall, to the extent to which in the exercise of due diligence he is able to procure such insurance, keep such broomcorn while in his custody as a licensed warehouseman insured in his own name or arrange for its insurance otherwise to the extent so requested, against loss or damage caused by fire, lightning, or tornado. When insurance is not carried in the warehouseman's name, the receipt shall show that the broomcorn is not insured by the warehouseman. Such insurance shall be covered by lawful policies issued by one or more insurance companies authorized to do such business, and subject to service of process in suits brought, in the State where the warehouse is located. If the warehouseman is unable to procure such



insurance to the extent requested, he shall, orally or by telegraph or by telephone and at his own expense, immediately notify the person making the request of the fact. Nothing in this section shall be construed to prevent the warehouseman from adopting a rule that he will insure all broomcorn stored in his warehouse.

(b) Each warehouseman shall keep exposed conspicuously in the place prescribed by § 105.6a, and at such other place as the chief of the Service or his representative may from time to time designate, a notice, stating briefly the conditions under which the broomcorn will be insured against loss or damage by fire, lightning, or tornado.

(c) Each warehouseman shall promptly take such steps as may be necessary and proper to collect any moneys which may become due under contracts of insurance entered into by him for the purpose of meeting the requirements of these regulations, and shall, as soon as collected, promptly pay over to the persons concerned any portion of such moneys which they may be entitled to receive from him.

§ 105.26 *Premiums; inspections; reports.* Each warehouseman shall, in accordance with his contracts with insurance and bonding companies for the purpose of meeting the insurance and bonding requirements of these regulations, pay such premiums, permit such reasonable inspections and examinations, and make such reasonable reports as may be provided for in such contracts.

§ 105.27 *Care of broomcorn in storage.* Each warehouseman shall at all times exercise such care in regard to broomcorn in his custody as a reasonably careful owner would exercise under the same circumstances and conditions.

§ 105.28 *Care of nonlicensed broomcorn or other commodities.* If, at any time, a warehouseman shall handle or store broomcorn other than as a licensed warehouseman, or shall handle or store any other commodity, he shall so protect the same, and otherwise exercise care with respect to it, as not to endanger the broomcorn in his custody as a licensed warehouseman or impair his ability to meet his obligations and perform his duties under the act and these regulations. If the licensed warehouseman shall store commodities other than those for which he is licensed to store, a non-licensed receipt shall be issued which shall contain in its terms a provision that said commodities are accepted for storage only until such time as the space which they may occupy may be needed for products for the storage of which the warehouseman is licensed. Under no circumstances shall any commodities for the storage of which the warehouseman is not licensed be stored if the storage of such commodities might adversely affect the commercial value of or the insurance on the broomcorn covered by licensed receipts.

§ 105.29 *Records to be kept in safe places.* Each warehouseman shall provide a metal fireproof safe, a fireproof vault, or a fireproof compartment in which he shall keep, when not in actual use, all records, books, and papers pertaining to the licensed warehouse, including his current receipt book, copies of receipts issued, and canceled receipts, except that with the written consent of the chief of the Service or his representative, upon a showing by such warehouseman that it is not practicable to provide such fireproof safe, vault, or compartment, he may keep such records, books, and papers in some other place of safety, approved by the chief of the Service or his representative. All canceled receipts shall be arranged by the warehouseman in numerical order as soon as possible after their cancellation and shall be preserved in numerical order thereafter.

§ 105.30 *Warehouse charges.* A warehouseman shall not make any unreasonable or exorbitant charge for services rendered. Before a license to conduct a warehouse is granted under the act the warehouseman shall file with the Service a copy of his rules, if any, and a schedule of the charges to be made by him if licensed. Before making any change in such rules or schedule of charges he shall file with the Service a statement in writing showing the proposed change and the reasons therefor. Each licensed warehouseman shall keep exposed conspicuously in the place prescribed by § 105.6, and at such other place, accessible to the public, as the chief of the Service or his representative may from time to time designate, a copy of his current rules and schedule of charges.

§ 105.31 *Business hours.* (a) Each licensed warehouse shall be kept open for the purpose of receiving broomcorn for storage and delivering broomcorn out of storage every business day for a period of not less than six hours between the hours of 8 a. m. and 6 p. m., except as provided in paragraph (b) of this section. The warehouseman shall keep conspicuously posted on the door of the public entrance to his office and to his warehouse a notice showing the hours during which the warehouse will be kept open, except when such warehouse is kept open continuously from 8 a. m. to 6 p. m.

(b) In case the warehouse is not to be kept open as required by paragraph (a) of this section, the notice posted as prescribed in that paragraph shall state the period during which the warehouse is to be closed and the name of an accessible person, with the address where he is to be found, who shall be authorized to deliver broomcorn stored in such warehouse, upon lawful demand and surrender of the receipt.

§ 105.32 *Numbered tags to be attached to bales.* (a) Each warehouseman shall, upon acceptance of any bale of broomcorn for storage, immediately

attach, unless there be already attached thereto, a numbered tag of good quality which shall identify the bale. Such tag either shall be made of reasonably heavy waterproof paper or linen, with reinforced eyelet, and be attached to the bale with a flexible, rustproof wire, or shall be made of such other material and attached by such other means as shall be approved by the chief of the Service or his representative. The tags shall be attached in numerical sequence or any series of sequences clearly distinguishable from each other. The warehouseman shall also attach to each lot at such place where it will be plainly visible, a tag of good quality which shall identify the lot. Such tag shall show the lot number, the identification mark on each bale, the number of the receipt issued to cover such broomcorn, the number of bales in the lot, the grade of the broomcorn, if determined, and the weight at the time the broomcorn entered storage.

(b) Each warehouseman shall so store each lot of broomcorn for which a receipt under the act has been issued that the lot tag thereon, required by paragraph (a) of this section, is visible and readily accessible, and shall arrange all bales in his licensed warehouse so as to permit an accurate count of the number of bales in each lot.

§ 105.33 *System of accounts.* Each warehouseman shall use for his licensed warehouse a system of accounts approved for the purpose by the chief of the Service or his authorized representative, which will show for each lot of broomcorn the name of the depositor, the lot and individual bale tag numbers of each lot, mentioned in § 105.32, the weight of each bale or lot, the variety and condition of the broomcorn, the grade when the same is required to be, or is, ascertained, the location, the dates received for and delivered out of storage, and the receipts issued and canceled, a separate record for each depositor, and such accounts shall include a detailed record of all moneys received and disbursed and of all effective and canceled insurance policies.

§ 105.34 *Reports.* Each warehouseman shall, from time to time, when requested by the chief of the Service, make such reports, as the chief of the Service may require, on forms prescribed and furnished for the purpose by the Service, concerning the condition, contents, operation, and business of the warehouse.

§ 105.35 *Copies of reports to be kept.* Each warehouseman shall keep on file, as a part of the records of the licensed warehouse, for such period as may be prescribed by the chief of the Service an exact copy of each such report submitted by such warehouseman under these regulations.

§ 105.36 *Canceled receipts; auditing.* Each warehouseman, when requested by the Service, shall forward his canceled



receipts for auditing to Washington or to such field offices of the Service as may be designated from time to time. For the purposes of this section only such portion as the Service may designate of each canceled receipt, numbered to correspond with the actual receipt number, need be submitted.

§ 105.37 *Inspections and examinations of warehouses.* Each warehouseman shall permit any officer or agent of the Department of Agriculture, authorized by the Secretary for the purpose, to enter and inspect or examine any licensed warehouse for the conduct of which such warehouseman holds a license, the office thereof, the books, records, papers, and accounts relating thereto, and the contents thereof, and such warehouseman shall furnish such officer or agent the assistance necessary to enable him to make any inspection or examination under this section.

§ 105.38 *Inspection of weighing apparatus.* The weighing apparatus used for ascertaining the weight stated in a receipt or certificate, issued for broomcorn stored in a licensed warehouse, shall be subject to examination by any officer or agent of the Department of Agriculture designated by the chief of the Service for such purpose. If the Service shall disapprove such weighing apparatus, it shall not thereafter, unless such disapproval be withdrawn, be used in ascertaining the weight of any broomcorn for the purposes of the act and these regulations.

§ 105.39 *Warehouse to be kept clean.* Each warehouseman shall keep his warehouse clean and free from trash, rubbish, and scattered broomcorn, and shall also keep his warehouse free from rats and other pests.

§ 105.40 *Warehouse to be kept light.* A warehouseman shall keep his warehouse sufficiently lighted so that the commercial value of the broomcorn may be easily determined upon examination.

§ 105.41 *Care in storage.* A warehouseman shall so store and handle broomcorn as not to injure or damage it in any manner.

§ 105.42 *Excess storage.* If at any time a warehouseman shall be offered for storage in his warehouse broomcorn in excess of the licensed capacity as shown on his license, he shall not accept such broomcorn until he has first secured authority through an amended license, and after such authority has been granted, the warehouseman shall continue to so arrange the broomcorn as not to obstruct free access thereto and the proper use of sprinklers or other fire-protection equipment provided for such warehouse.

§ 105.43 *Removal of broomcorn from storage.* Except as may be permitted by law or these regulations, a warehouseman shall not remove any broomcorn, for storage, from the licensed warehouse or a part thereof designated in the receipt for such broomcorn unless such receipt is first surrendered and canceled. Under no other circumstances, unless it becomes

absolutely necessary to protect the interests of holders of receipts, shall broomcorn be removed from the licensed warehouse, before the surrender of the receipts, and immediately upon any such removal the warehouseman shall notify the chief of the Service of such removal and the necessity therefor.

§ 105.44 *Signatures of persons to sign receipts to be filed with department.* Each warehouseman shall file with the department the name and genuine signature of each person authorized to sign warehouse receipts for the licensed warehouseman, and shall promptly notify the department of any changes as to persons authorized to sign, and shall file signatures of such persons.

§ 105.45 *Fire loss to be reported by telegraph.* If at any time a fire shall occur at or within any licensed warehouse, it shall be the duty of the warehouseman to report immediately by wire to the chief of the Service the occurrence of such fire and the extent of damage.

§ 105.46 *Copies of inspection, grade, or weight certificates to be filed.* When an inspection, grade, or weight certificate is issued by a licensed inspector, grader, or weigher, a copy of such certificate shall be filed with the warehouseman in whose warehouse the broomcorn covered by such certificate is stored, and such certificate shall become a part of the records of the licensed warehouseman.

#### FEES

§ 105.47 *Warehouse license fees.* There shall be charged, assessed and collected a fee of \$10 for each warehouseman's license or any amendment thereto, and a fee of \$3 for each license issued to a grader, weigher or an inspector.

§ 105.48 *Warehouse inspection fees.* There shall be charged, assessed, and collected for each original examination or inspection of a warehouse under the act, when such examination or inspection is made upon application of a warehouseman, a fee at the rate of \$5 for each 1,000 bales of the storage capacity, or fraction thereof, determined in accordance with § 105.12 (a), but in no case less than \$10 nor more than \$200, and, for each reexamination or reinspection applied for by such warehouseman, a fee, based on the extent of the reexamination or reinspection, proportioned to but not greater than that prescribed for the original examination or inspection.

§ 105.49 *Advance deposit.* Before any warehouseman's license or amendment thereto, or any grader's, weigher's or inspector's license, is granted, or an original examination or inspection, or reexamination or reinspection applied for by a warehouseman, is made, pursuant to these regulations, the warehouseman, and/or grader, weigher, or inspector, shall deposit with the Service the amount of the fee prescribed therefor. Such deposit shall be made in the form of a check, certified if required by the Service, draft,

or post office or express money order, payable to the order of "Treasurer of the United States".

§ 105.50 *Return of excess deposit.* The Treasurer of the United States will hold in a special deposit account each advance deposit made under section 105.49 until the fee, if any, is assessed and he is furnished by the Service with a statement showing the amount thereof and against whom assessed. Any part of such advance deposit which is not required for the payment of any fee assessed shall be returned to the party depositing the same.

#### LICENSED INSPECTORS, GRADERS AND WEIGHERS

§ 105.51 *Application forms.* (a) Application for licenses to inspect, grade, or weigh broomcorn under the act shall be made to the chief of the Service on forms furnished for the purpose by him.

(b) Each such application shall be in English, shall be signed by the applicant, shall be verified by him under oath or affirmation administered by a duly authorized officer, and shall contain or be accompanied by (1) satisfactory evidence that he has passed his twenty-first birthday; (2) the name and location of a warehouse or warehouses licensed, or for which application for license has been made, under the act in which broomcorn sought to be inspected, graded, and weighed under such license is or may be stored; (3) a statement from the warehouseman conducting such warehouse showing whether the applicant is competent and is acceptable to such warehouseman for the purpose; (4) satisfactory evidence that he has had at least one year's experience in the kind of service for which license is sought or the equivalent of such experience and that he is competent to perform such services, except in the case of applicants for weighers' licenses one month's experience will be sufficient; (5) a statement by the applicant that he agrees to comply with and abide by the terms of the act and these regulations so far as the same may relate to him; and (6) such other information as the chief of the Service may deem necessary: *Provided*, That when application for license to inspect or grade broomcorn is filed by a person who does not intend to inspect or grade broomcorn for any particular licensed warehouseman but who does intend to inspect or grade broomcorn stored or to be stored in a licensed warehouse and to issue inspection or grade certificates therefor, as provided by the act and these regulations, independent of the warehouse receipts issued to cover such broomcorn, it shall not be necessary to furnish such statement as is required by subdivision (3) of this paragraph.

(c) The applicant shall at any time furnish such additional information as may be deemed necessary to a proper consideration of his application.

(d) A single application may be made by any person for a license to inspect,



grade, and weigh, upon complying with the requirements of this section.

§ 105.52 *Examination of applicant.* Each applicant for license as an inspector, grader or weigher, and each licensed inspector, licensed grader, or licensed weigher, whenever requested by an authorized agent of the Department of Agriculture designated by the chief of the Service for the purpose, shall submit to an examination or test to show his ability to inspect, grade or weigh broomcorn, as the case may be, and each such applicant or licensee shall furnish the Service any information which it may request, at any time, in regard to his inspection, grading, or weighing of broomcorn.

§ 105.53 *Posting of license.* Each licensed inspector and each licensed grader shall keep his license conspicuously posted in the office where all or most of the inspecting and grading is done, and each licensed weigher shall keep his license conspicuously posted in the warehouse office, or in such place as may be designated by the Service.

§ 105.54 *Duties of licensees.* Each licensed inspector, licensed grader, or licensed weigher, according to the nature of his license, when requested, shall, without discrimination, as soon as practicable, and upon reasonable terms, sample, inspect, grade, or weigh, and certificate the condition, grade, or weight of broomcorn stored or to be stored in a warehouse for which he holds a license, if such broomcorn be offered to him under such conditions as permit proper sampling, inspection, grading, or weighing. Each such licensee shall give preference to persons who request his services as such over persons who request his services in any other capacity. No sample shall be drawn and no inspection, grade, or weight certificate shall be issued under the act for broomcorn not stored or to be stored in a licensed warehouse.

§ 105.55 *Inspection certificate; form.* Each inspection certificate issued under the act by a licensed inspector shall be issued on the day the inspection was made, shall be in a form approved for the purpose by the chief of the Service, and shall embody within its written or printed terms (1) the caption "United States Warehouse Act, Broomcorn Inspection Certificate"; (2) whether it is an original, a duplicate, or other copy; (3) the name and location of the licensed warehouse in which the broomcorn is or is to be stored; (4) the date of the certificate; (5) the location of the broomcorn at the time of inspection; (6) the identification number or mark on each bale of broomcorn, given in accordance with § 105.32 (a); (7) the condition of the broomcorn for storage at the time of inspection; (8) that the certificate is issued by a licensed inspector, under the United States warehouse act and regulations thereunder; (9) a blank space designated for the purpose in which may be stated any general remarks on the condition of the broomcorn; (10) the signature of such licensed

inspector. In addition, the inspection certificate may include any other matter not inconsistent with the act or these regulations, provided the approval of the Service is first secured.

§ 105.56 *Grade certificate; form.* Each grade certificate issued under the act by a licensed grader shall be issued on the day the grading was performed, shall be in a form approved by the purpose by the chief of the Service, and shall embody within its written or printed terms (1) the caption "United States Warehouse Act, Broomcorn Grade Certificate"; (2) whether it is an original, a duplicate, or other copy; (3) the name and location of the licensed warehouse in which the broomcorn is or is to be stored; (4) the date of the certificate; (5) the location of the broomcorn at the time of grading; (6) the identification number or mark of each bale of broomcorn, given in accordance with § 105.32 (a); (7) the grade or other class of each bale of broomcorn covered by the certificate, in accordance with §§ 105.66-105.70, as far as applicable, and the standard or description in accordance with which the grade is made; (8) the approximate amount of broomcorn covered by the certificate; (9) that the certificate is issued by a licensed grader under the United States warehouse act and regulations thereunder; and (10) the signature of the licensed grader. In addition, the grade certificate may include any other matter not inconsistent with the act or these regulations, provided the approval of the Service is first secured.

§ 105.57 *Weight certificate; form.* Each weight certificate issued under the act by a licensed weigher shall be issued on the day the weighing was performed, shall be in a form approved for the purpose by the chief of the Service, and shall embody within its written or printed terms (1) the caption "United States Warehouse Act, Broomcorn Weight Certificate"; (2) whether it is an original, a duplicate, or other copy; (3) the name and location of the licensed warehouse in which the broomcorn is or is to be stored; (4) the date of the certificate; (5) the location of the broomcorn at the time of weighing; (6) the identification number or mark of each bale of broomcorn, given in accordance with § 105.32 (a); (7) the weight of the broomcorn; (8) that the certificate is issued by a licensed weigher, under the United States warehouse act and the regulations thereunder; and (9) the signature of such licensed weigher. In addition, the weight certificate may include any other matter not inconsistent with the act or these regulations, provided the approval of the Service is first secured.

§ 105.58 *Combined inspection, grade and weight certificate.* The condition, grade, and weight of any broomcorn ascertained by a licensed inspector, licensed grader, and a licensed weigher may be stated on a certificate meeting the combined requirements of §§ 105.55-105.57, if the form of such certificate

shall have been approved for the purpose by the chief of the Service.

§ 105.59 *Copies of certificates to be kept.* Each licensed inspector, each licensed grader, and each licensed weigher shall keep for a period of one year in a place accessible to persons financially interested a copy of each certificate issued by him under these regulations and shall file a copy of each such certificate with the warehouse in which the broomcorn covered by the certificate is stored.

§ 105.60 *Licensees to permit and assist in examination.* Each licensed inspector, each licensed grader, and each licensed weigher shall permit any officer or agent of the Department of Agriculture, authorized by the Secretary for the purpose, to inspect or examine at any time his books, papers, records, and accounts relating to the performance of his duties under the act and these regulations, and shall, with the consent of the licensed warehouseman concerned, assist any such officer or agent in the inspection or examination of records mentioned in § 105.33 as far as any such inspection or examination relates to the performance of the duties of such licensed inspector, such licensed grader, or such licensed weigher under the act and these regulations.

§ 105.61 *Reports.* Each licensed inspector, each licensed grader, and each licensed weigher shall from time to time, when requested by the chief of the Service, make reports, on forms furnished for the purpose by the Service, bearing upon his activities as such licensed inspector, licensed grader, or licensed weigher.

§ 105.62 *Licenses; suspensions or revocation.* Pending investigation the Secretary, or his designated representative, may, whenever he deems necessary, suspend the license of an inspector, grader, or weigher temporarily without hearing. Upon a written request and a satisfactory statement of reasons therefor, submitted by the inspector, grader, or weigher, or when the inspector, grader, or weigher has ceased to perform such services at the warehouse, the Secretary, or his designated representative, may, without hearing suspend or revoke the license issued to such licensee. The Secretary, or his designated representative, may, after opportunity for hearing, when possible, has been afforded in the manner prescribed in this section, suspend or revoke a license issued to a licensed inspector, licensed grader, or licensed weigher when such licensee has in any manner become incompetent or incapacitated to perform the duties of a licensed inspector, grader, or weigher. As soon as it shall come to the attention of a licensed warehouseman that any of the conditions mentioned in this section exist, it shall be the duty of such warehouseman to notify in writing the chief of the Service. Before the license of any inspector, grader, or weigher is suspended or revoked pursuant to section 12 of the act (46 Stat. 1464; 7 U.S.C.



253), such licensee shall be furnished by the Secretary, or by his designated representative, a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be afforded in accordance with § 105.75.

§ 105.63 *Return of suspended or revoked licenses—Termination of license.* (a) In case a license issued to an inspector, grader, or weigher is suspended or revoked by the Secretary, or his designated representative, such license shall be returned to the Secretary. At the expiration of any period of suspension of such license, unless in the meantime it be revoked, the dates of the beginning and termination of the suspension shall be indorsed thereon and it shall be returned to the person to whom it was originally issued, and it shall be posted as prescribed in § 105.53.

(b) Any license issued to an inspector, grader, or weigher, shall automatically be suspended or terminated as to any licensed warehouse whenever the license of such warehouse shall expire or be suspended or revoked. Thereupon, the license of such inspector, grader, or weigher shall be returned to the Secretary. In case such license shall apply to other warehouses the Secretary, or his designated representative, shall issue to him a new license, omitting the names of the warehouses covering which licenses have been so suspended or revoked. Such new license shall be posted as prescribed in § 105.53.

§ 105.64 *Lost or destroyed licenses.* Upon satisfactory proof of the loss or destruction of a license issued to an inspector, grader, or weigher, a duplicate thereof may be issued under the same number.

§ 105.65 *Unlicensed inspector or weigher; misrepresentation.* No person shall in any way represent himself to be an inspector, grader, or weigher licensed under the act unless he holds an unsuspended or unrevoked license issued under the act to perform such duties.

#### BROOMCORN CLASSIFICATION

§ 105.66 *Variety, grade and condition; statement of.* Whenever the variety, grade, or condition of broomcorn is required to be or is stated for the purposes of the act and these regulations, it shall be stated in accordance with §§ 105.66–105.70.

§ 105.67 *Standards to be used.* Until such time as official broomcorn standards of the United States are in effect, the variety, grade, and condition of broomcorn shall be stated as far as applicable, (1) in accordance with tentative standards of the United States, if any; (2) in accordance with the State standards, if any, established in the State in which the warehouse is located; (3) in the absence of any State standards, in accordance with the standards, if any, adopted by any broomcorn organization

or by the broom or broomcorn trade generally in the locality in which the warehouse is located, subject to the disapproval of the chief of the Service; or (4) in the absence of any of the aforesaid standards, in accordance with any standards approved for the purpose by the chief of the Service.

§ 105.68 *Grade and condition to be based on whole bale.* Whenever the variety, grade, or condition of broomcorn is stated for the purposes of the act and these regulations, the terms used shall be correctly applied and shall be so selected as not to convey a false impression of the broomcorn. In determining the variety, grade, or condition of a bale of broomcorn, the bale as a whole shall be considered rather than parts of it which do not materially affect the value of the entire bale.

§ 105.69 *Statement of grade.* Whenever the grade of broomcorn is stated for the purposes of the act and these regulations, it shall be based upon a careful and thorough examination of the bale of broomcorn or a representative sample thereof. In case the broomcorn in one part of a bale or sample is inferior to that in other parts of the bale or sample, the grade assigned to the broomcorn shall be an average considering the proportion that each part bears to the whole, and in case of a question as to which of two or more grades should be assigned to the broomcorn, the lowest grade in question shall be assigned.

§ 105.70 *Statement of condition.* Whenever the condition of broomcorn is stated for the purposes of the act and these regulations, it shall be based upon a careful and thorough examination of the bale of broomcorn.

#### ARBITRATIONS

§ 105.71 *Broomcorn arbitrations; committee; proceedings.* (a) In case a question arises as to whether the variety, grade, or condition of the broomcorn was correctly stated in a receipt, inspection certificate, grade certificate, or weight certificate issued under the act and these regulations, or as to whether a sample was properly drawn by a licensed inspector in accordance with these regulations, the licensed warehouseman concerned or any person financially interested in the broomcorn involved may, after reasonable notice to the other interested party, submit the question to an arbitration committee for determination in accordance with this section.

(b) Such arbitration committee shall be composed of three or more disinterested persons who are competent to pass upon the questions involved. If there be a local trade organization such as a board of trade, chamber of commerce, exchange, or inspection department which provides such a committee under a rule or practice acceptable to the chief of the Service for the purpose, such committee may determine the question. In the absence of such a committee, or if for any good reason not inconsistent with the act

and these regulations such committee is not acceptable to either of the parties interested, the complainant and the other party shall each name a member and the two members so named shall select a third member, who shall constitute the arbitration committee. Each member of any such committee shall at all times be subject for good cause to the disapproval of the chief of the Service, and in case any member is so disapproved he shall not thereafter act on an arbitration committee under this section unless such disapproval be withdrawn.

(c) It shall be the duty of such parties to acquaint the arbitration committee with the exact nature of the question to be determined and all the necessary facts and to permit the committee to examine the receipt, certificate, sample, or broomcorn involved or any papers or records needed for the determination of the question. The committee shall make a written finding setting forth the question involved, the necessary facts, and its determination. Such findings, or a true copy thereof, shall be filed as a part of the records of the licensed warehouseman involved. It may dismiss the matter without determination upon the request of the complainant, or for non-compliance by the complainant with the law or these regulations, or because it is without sufficient evidence to determine the question, in which case the decision shall be deemed to be against the complainant. Except as otherwise provided by law, its decision shall be final for the purposes of the act and these regulations, unless the chief of the Service shall direct a review of the question. Any necessary and reasonable expense of such arbitration shall be borne by the losing party, unless the committee shall decide that such expense shall be prorated between the parties.

(d) If the decision of the arbitration committee be that the variety, grade, or condition was not correctly stated, the receipt or certificate involved shall be returned to and canceled by the licensee who issued it and he shall substitute therefor one conforming to the decision of the committee. If the decision of the committee be that a sample was not properly drawn in accordance with these regulations, it shall cease to be a sample for the purposes of these regulations, and the licensed inspector, at the request of any of the parties to the arbitration, shall draw and substitute a new sample, complying with these regulations with respect to such sample.

#### MISCELLANEOUS

§ 105.72 *Bonds required.* Every person applying for a license, or licensed under section 9 of the act (46 Stat. 1464; 7 U.S.C. 248) shall be subject to all portions of these regulations, except § 105.5, so far as they may relate to warehousemen. In case there is a law of any State providing for a system of warehouses owned, operated, or leased by such State, a person applying for a license under section 9 of the act, to accept the custody



of broomcorn and to store the same in any of said warehouses, may, in lieu of a bond or bonds, complying with §§ 105.11 and 105.12, file with the Secretary a single bond meeting the requirements of the act and regulations, in such form and in such amount not less than \$5,000 as he shall prescribe, to insure the performance by such person, with respect to the acceptance of the custody of broomcorn and its storage in the warehouses in such system for which licenses are or may be issued, of his obligations arising during the periods of such licenses, and in addition, if desired by the applicant, during the periods of any modifications or extensions thereof. In fixing the amount of such bond consideration shall be given, among other appropriate factors, to the character of the warehouses involved, their actual or contemplated capacity, the bonding requirements of the State, and its liability with respect to such warehouses. If the Secretary shall find the existence of conditions warranting such action, there shall be added to the amount of the bond so fixed a further amount, fixed by him, to meet such conditions.

§ 105.73 *Publications.* Publications under the act and the regulations shall be made in service and regulatory announcements of the Agricultural Marketing Service and such other media as the chief of the Service may from time to time designate for the purpose.

§ 105.74 *Information of violations.* Every person licensed under the act shall immediately furnish the Service any information which comes to the knowledge of such person tending to show that any provision of the act or the regulations has been violated.

§ 105.75 *Procedure in hearings.* For the purpose of a hearing under the act or these regulations, except § 105.71, the licensee involved shall be allowed a reasonable time, fixed by the Secretary or by an official of the Department of Agriculture designated by him for the purpose, within which affidavits and other proper evidence may be submitted. If requested by the licensee within such time, an oral hearing, of which reasonable notice shall be given, shall be held before, and at a time and place fixed by, the Secretary or an official of the Department of Agriculture designated by him for the purpose. The testimony of the witnesses at such oral hearing shall be upon oath or affirmation administered by the official before whom the hearing is held, when required by him. Such oral hearing may be adjourned by him from time to time. After reasonable notice to all parties concerned, the deposition of any witness may be taken at a time and place and before a person designated for the purpose by the Secretary or an official of the Department of Agriculture authorized by the Secretary. Every written entry in the records of the Department of Agriculture made by an officer or employee thereof in the course of his

official duty, which is relevant to the issue involved in a hearing, shall be admissible as prima facie evidence of the facts stated therein without the production of such officer or employee. Copies of all papers and all the evidence submitted or considered in such hearing shall be made a part of the records of the Department of Agriculture. The records and, when there has been an oral hearing other than by the Secretary, the recommendation of the official holding such oral hearing shall be transmitted to the Secretary for his consideration. Each party shall pay all expenses contracted by him in connection with any hearing under this section.

§ 105.76 *One document and one license to cover several products.* A license may be issued for the storage of two or more agricultural products in a single warehouse or in one or more compartments in the same warehouse. Where such a license is desired, a single application, inspection, bond, record, report or other paper, document or proceeding relating to such warehouse, shall be sufficient unless otherwise directed by the chief of the Service.

§ 105.77 *Amount of assets and bond needed for combination warehouses.* Where such license is desired, the amount of the bond, net assets, and inspection and license fees shall be determined by the chief of the Service in accordance with the regulations applicable to the particular agricultural product which would require the largest bond and the greatest amount of net assets and of fees applicable to the particular compartment or compartments to be licensed.

§ 105.78 *Amendments.* Any amendment to, or revision of, these regulations, unless otherwise stated therein, shall apply in the same manner to persons holding licenses at the time it becomes effective as it applies to persons thereafter licensed under the act.

Done at Washington, D. C. this 28th day of March 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,  
Secretary of Agriculture.

[F. R. Doc. 40-1276; Filed, March 28, 1940;  
10:59 a. m.]

## TITLE 25—INDIANS

### CHAPTER I—OFFICE OF INDIAN AFFAIRS

#### PART 130—ORDERS FIXING OPERATION AND MAINTENANCE CHARGES

##### AMENDMENT FOR TRIBAL AND TRUST PATENT INDIAN LANDS, SAN CARLOS PROJECT, ARIZONA, CALENDAR YEAR 1938

MARCH 4, 1940.

Section 130.110<sup>1</sup> Fixing Operation and Maintenance Charges for Tribal and

<sup>1</sup> 4 F.R. 2055.

Trust Patent Indian Lands, San Carlos Project, Arizona, Calendar Year 1938 and until further order, is amended by substituting 1940 instead of "1938" as the calendar year and further substituting \$2.10 instead of "\$1.65" as the basic charge per acre.

W. C. MENDENHALL,  
Acting Assistant Secretary  
of the Interior.

[F. R. Doc. 40-1270; Filed, March 28, 1940;  
9:32 a. m.]

#### PART 130—ORDERS FIXING OPERATION AND MAINTENANCE CHARGES

##### AMENDMENT FOR WIND RIVER INDIAN IRRIGATION PROJECT, WYOMING

MARCH 4, 1940.

Section 130.95 Fixing Operation and Maintenance Charges Wind River Indian Irrigation Project, Wyoming,<sup>1</sup> is amended by substituting 1940 instead of "1938" as the calendar year and further substituting 45 cents instead of "25 cents" as the per acre additional assessment for the Big Bend Drainage District.

W. C. MENDENHALL,  
Acting Assistant Secretary  
of the Interior.

[F. R. Doc. 40-1271; Filed, March 28, 1940;  
9:32 a. m.]

#### PART 130—ORDERS FIXING OPERATION AND MAINTENANCE CHARGES

##### AMENDMENT FOR CROW INDIAN IRRIGATION PROJECT, MONTANA

MARCH 5, 1940.

Section 130.12<sup>2</sup> of Fixing Operation and Maintenance Charges on Crow Indian Irrigation Project, Montana, is amended by substituting 1940 instead of "1939" as the calendar year and further substituting \$0.60 instead of "\$0.35" as the per acre assessment for the Bozeman Trail Unit.

W. C. MENDENHALL,  
Acting Assistant Secretary  
of the Interior.

[F. R. Doc. 40-1272; Filed, March 28, 1940;  
9:32 a. m.]

#### PART 130—ORDERS FIXING OPERATION AND MAINTENANCE CHARGES

##### AMENDMENT FOR FORT HALL INDIAN IRRIGATION PROJECT, IDAHO

Section 130.32 Fixing Operation and Maintenance Charges on Fort Hall Indian Irrigation Project, Idaho, which read:

<sup>1</sup> 3 F.R. 912.  
<sup>2</sup> 4 F.R. 1236.



§ 130.32 *Assessment.* Pursuant to the Act of March 1, 1907 (34 Stat., 1024-1025), the rates of assessment of operation and maintenance charges against land in non-Indian ownership and against land in Indian ownership leased for a term longer than three years, to which water can be delivered for irrigation under the Fort Hall Irrigation Project, are hereby fixed for the calendar year 1939 and subsequent years until further order:

Minimum charge for each tract in noncontiguous ownership of less than 1.5 acres.....	\$3.00
1.5 acres up to and including 4.99 acres, per acre.....	2.00
5 acres up to and including 9.99 acres, per acre.....	1.75
10 acres up to and including 14.99 acres, per acre.....	1.50
15 acres or more, per acre.....	1.00
For contiguous small tracts in separate ownership within a farm unit aggregating not less than 15 acres, when an agent satisfactory to the Project Engineer is appointed for the purpose of collecting and paying the irrigation charges for all owners in a single amount, and representing them in the delivery of water per acre.....	1.00

is amended to read:

§ 130.32 *Assessment.* Pursuant to the Act of March 1, 1907 (34 Stat. 1024-1025), the rates of assessment of operation and maintenance charges against land in non-Indian ownership to which water can be delivered for irrigation under the Fort Hall Irrigation Project, are hereby fixed as follows for the calendar year 1940 and subsequent years until further order:

Minimum charge for each tract in non-contiguous ownership of less than 1.5 acres.....	\$3.30
1.5 acres up to and including 4.99 acres per acre.....	2.20
5 acres up to and including 9.99 acres per acre.....	1.93
10 acres up to and including 14.99 acres per acre.....	1.65
15 acres or more, per acre.....	1.10
For contiguous small tracts in separate ownership within a farm unit aggregating not less than 15 acres when an agent satisfactory to the Project Engineer is appointed for the purpose of collecting and paying in a single amount the annual irrigation charges for all owners and representing them in delivery of water per acre.....	1.10

Indian lands leased, as discussed in the letter from the Commissioner of Indian Affairs of December 1, 1938, and approved by the Assistant Secretary of the Interior on December 17, 1938, are subject to the payment of the foregoing charges as therein provided.

W. C. MENDENHALL,  
Acting Assistant Secretary  
of the Interior.

MARCH 9, 1940.

[F. R. Doc. 40-1273; Filed, March 28, 1940; 9:32 a. m.]

## TITLE 26—INTERNAL REVENUE

### CHAPTER I—BUREAU OF INTERNAL REVENUE

[1938]

#### GAUGING MANUAL EMBRACING INSTRUCTIONS AND TABLES<sup>1</sup> FOR DETERMINING THE QUANTITY OF DISTILLED SPIRITS BY PROOF AND WEIGHT

##### TABLE OF CONTENTS

##### ARTICLE I—METHOD OF GAUGING PRESCRIBED

Par.

1. Commissioner authorized to prescribe rules and regulations.
2. Scales prescribed for weighing.
3. Proprietors of plants to provide approved scales.
4. Supervisors to account for Government owned weighing beams.

##### ARTICLE II—WEIGHING APPLIANCES

5. Care and use of weighing beam.
6. Inaccurate scale not to be used.
7. Testing of scale.
8. Correct reading of weighing beam.
9. Test weights.

##### ARTICLE III—THE WEIGHING SYSTEM

10. Examination of casks before weighing.
11. Weighing casks of spirits on filling.
12. Gross and net weight.
13. Wine and proof gallon contents.
14. Verification by storekeeper-gauger.
15. Filling of packages.
16. Packages less than 40 wine gallons.
17. Remnant packages.
18. Determination of capacity.
19. Wine gallons ascertained.
20. Capacity cut on bung stave.

##### ARTICLE IV—PROOFING DISTILLED SPIRITS

21. Hydrometers supplied to storekeeper-gaugers.
22. Extra sets.
23. Test set.
24. Last set received used as standard.
25. Tests at stated intervals.
26. Storekeeper-gaugers to make tests.
27. Requisitions for sets.
28. Complete sets supplied only when needed.
29. Used with care.
30. Inaccurate instruments returned.
31. Proprietors to furnish sets for their use.
32. Instructions for determining temperature and indication of spirits.
33. Reading indicated proof.
34. Correction of proof.
35. True indication of proof.
36. True per cent of proof.
37. Fractions dropped.
38. Proof spirit definition.
39. Proof indicated on hydrometer.

##### ARTICLE V—DETERMINATION OF NET WINE GALLONS AND PROOF GALLONS

40. Actual wine and proof gallons.
41. Proof gallon contents.

##### ARTICLE VI—GAUGING, MARKING, AND STAMPING PACKAGES OF ALCOHOL

42. Marks on packages.
43. Filling and marking small packages of alcohol weighed to ounces.
44. Table of weights for small containers.
45. Ascertaining weight.
46. Fractions of gallon equivalent to 1 pound.
47. Transfer in bond.

##### ARTICLE VII—MARKING PACKAGES OF BRANDY TRANSFERRED DIRECT FROM THE DISTILLERY TO THE WINERY ON CONTIGUOUS PREMISES

48. Brandy removed to fortifying room.

<sup>1</sup>The tables were filed as a part of the original document.

##### ARTICLE VIII—RAILROAD TANK CARS OF ALCOHOL

Par. 49. Alcohol shipped in tank cars.

##### ARTICLE IX—TANK CARS OF SPIRITS PRODUCED AT REGISTERED DISTILLERIES

50. Brandy shipped in tank cars.
51. Spirits other than brandy shipped in tank cars.
52. Tax-paid spirits shipped in tank cars.

##### ARTICLE X—PACKAGING OF DISTILLED SPIRITS

53. Spirits drawn from cistern.
54. Gauging and marking spirits.

##### ARTICLE XI—MARKING AND BRANDING CASKS OR PACKAGES OF SPIRITS DISTILLED AT A REGISTERED DISTILLERY WHEN FILLED FROM RECEIVING CISTERNS AND WAREHOUSE STORAGE TANKS

55. Packages of spirits to be gauged and marked.
56. Markings on packages filled.
57. Additional marks on packages filled.
58. Marks on tax-paid packages.
59. Cuttings on barrel stave.
60. Kind of spirits branded on barrel.
61. Inspection stenciled on Government head.
62. Cut illustrating marks.

##### ARTICLE XII—CHANGE OF PACKAGE IN INTERNAL REVENUE BONDED WAREHOUSE TO PREVENT LOSS BY LEAKAGE

63. Change of package.
64. Report to supervisor.

##### ARTICLE XIII—CHANGE IN KIND OF COOPERAGE IN INTERNAL REVENUE BONDED WAREHOUSES

65. Request to change kind of cooperage.
66. Commissioner's approval required.
67. Label on new package.

##### ARTICLE XIV—SPIRITS IN INTERNAL REVENUE BONDED WAREHOUSES NOT EXCEEDING 30 DAYS NEED NOT BE REGAUGED UPON WITHDRAWAL OR TRANSFER IN BOND

68. Withdrawal without regauge.
69. Regauge if package shows tampering.
70. Notation of reason for regauge.

##### ARTICLE XV—GAUGING, MARKING, AND STAMPING PACKAGES OF DISTILLED SPIRITS UPON WITHDRAWAL FROM INTERNAL REVENUE BONDED WAREHOUSE

71. Spirits gauged before withdrawal.
72. Withdrawal for transfer in bond.
73. Markings on packages.
74. Examination of packages on receipt.
75. Withdrawal for tax payment.
76. Packages filled from warehouse tanks.
77. Withdrawal for bottling-in-bond.
78. Withdrawal for export.
79. Marks on Government head.
80. Cuttings on barrel stave.
81. Change of packages.
82. Withdrawal for transfer to manufacturing warehouses.
83. Withdrawal for use of United States.
84. Marks on Government head.
85. Withdrawal of brandy for fortification of wine.
86. Markings on packages.

##### ARTICLE XVI—REPORTS OF PRODUCTION, ENTRY, AND WITHDRAWAL OF DISTILLED SPIRITS

87. Reports of production, entry, and withdrawal.

##### ARTICLE XVII—SOAKAGE OR ABSORPTION

88. Tare determined on regauge.
89. Withdrawal for bottling-in-bond.
90. Soakage not additional allowance.
91. Option of method.
92. Actual tare.
93. Average tare.
94. Fractions of a pound.
95. Same kind of spirits and cooperage.
96. Varying proofs and periods in warehouse.
97. Examples.



## Par.

- 98. Additional examples.
- 99. Packages marked "average tare taken."
- 100. Variance of 4 pounds.
- 101. Estimated tare.
- 102. Period of month defined.
- 103. Packages less than 40 wine gallons.
- 104. Packages less than 20 wine gallons.
- 105. Fractions of 1 pound.
- 106. Packages of 120-gallon capacity.

## ARTICLE XVIII—ALLOWANCE FOR LOSS OF SPIRITS WHILE IN WAREHOUSE

- 107. Losses shown by regauge.
- 108. Month defined.
- 109. Packages less than 40 wine gallons.
- 110. Fractions less than one-tenth gallon.
- 111. Eight-year bonded period.
- 112. No loss allowance on tanks or tank cars.

## ARTICLE XIX—COMPUTATION OF TAX ON DISTILLED SPIRITS

- 113. Tax rate on spirits.
- 114. Less than one-tenth gallon excluded.
- 115. Spirits below proof.
- 116. Method of computation.

## ARTICLE XX—STAMPS

- 117. Facsimile signatures.
- 118. Affixing, canceling, and covering stamps.
- 119. Affixing stamps.
- 120. Head of package in two parts.
- 121. Clean surface for affixing stamps.
- 122. Tacks driven through stamp.
- 123. Tacks not required in certain cases.
- 124. Size of tacks.
- 125. No marks, etc., on Government head other than those required by regulation.
- 126. Cancellation of stamp.
- 127. Stamp covered with varnish.
- 128. Assistance and supplies furnished by proprietor.
- 129. Stamps canceled by warehouseman.
- 130. Stamps affixed to packages of alcohol.
- 131. Stamps canceled by proprietor.
- 132. Covered with varnish.
- 133. Procedure for obtaining tax-paid stamps.
- 134. Signature of collector on stamps.

## ARTICLE XXI—REDUCTION IN PROOF IN DISTILLERS' ORIGINAL PACKAGES

- 135. Reduction in proof on warehouse premises.
- 136. Pure water used in reduction.
- 137. Quantity of water added.
- 138. Reduction after removal from warehouse.
- 139. Separate room or building.
- 140. Help furnished by proprietor.
- 141. One reduction only permitted.
- 142. Rule for determining quantity of water required.
- 143. Table for ascertaining water required.
- 144. Application to reduce proof.
- 145. Regauge after reduction of proof.
- 146. Marks on head of package.

## ARTICLE XXII—COMMERCIAL OR UNOFFICIAL GAUGING

- 147. Commercial gauging by storekeeper-gauger not permitted.

## ARTICLE XXIII—WINE AND PROOF GALLON DEFINED

- 148. Wine gallon definition.
- 149. Proof defined.
- 150. Example.

## ARTICLE XXIV—TABLES 2, 3, 4, AND 5

- 151. Rule for use of tables.

## ARTICLE XXV—GAUGING MANUAL OF JANUARY 1934 SUPERSEDED

- 152. Effective date of Gauging Manual.

## ARTICLE I—METHOD OF GAUGING PRESCRIBED

PARAGRAPH 1. Under the provisions of section 3249 of the Revised Statutes (U.S.C., 1934 ed., title 26, sec. 1157), the Commissioner of Internal Revenue is empowered to prescribe such hydrome-

ters, weighing and gauging instruments, or other means for ascertaining the strength and quantity of spirits subject to tax as he may deem necessary; also to prescribe rules and regulations to secure a uniform and correct system of inspection, weighing, marking, and gauging of spirits. The words "distillery" and "registered distillery," when used in this Manual, include fruit distilleries.

PAR. 2. By virtue of the above-mentioned provisions of law, weighing by the use of scale is prescribed for the gauging of distilled spirits.

PAR. 3. Proprietors of distilleries, internal revenue bonded warehouses, industrial alcohol plants, industrial alcohol bonded warehouses, denaturing plants, rectifying plants, and wineries where weighing of spirits is required must provide at their own expense accurate weighing beams and appliances or other accurate scales for use in weighing spirits. The weighing beams or scales provided must be in good condition, of sufficient weighing capacity, and found to be accurate by actual test made by the storekeeper-gauger.

PAR. 4. District supervisors and other officers having in their possession weighing beams heretofore furnished by the Government will be held responsible therefor and required to account for such property. District supervisors and storekeeper-gaugers will continue to include such property in their returns on Forms 152 and 289.

## ARTICLE II—WEIGHING APPLIANCES

*Care and Use of Weighing Beams and Appliances*

PAR. 5. In using the beams they should be kept as nearly horizontal as possible. In no instance should the cask be raised by using the beam as a lever, as such action destroys the knife edge of the pivots. The poise should not be moved while in contact with the top of the notches on the beam, but should in all cases be raised and placed in the notch. In order to maintain them in a highly accurate condition, the poises must not be used for other than their intended purpose, nor must foreign matter be permitted to adhere thereto.

PAR. 6. In case a beam or other scale becomes inaccurate for any reason, the storekeeper-gauger will not permit it to be used while it is in such condition.

PAR. 7. Before proceeding to weigh either empty or filled packages at a registered distillery, internal revenue bonded warehouse, or winery where wines are fortified, the officer will carefully examine the weighing beam or other scale to ascertain that the same is in good condition. Where a weighing beam is to be used, the officer will see that the beam is horizontal, is properly adjusted, and that it balances perfectly with the barrel hooks and counterpoise attached. The accuracy of the beam will also be tested each day by weighing the 16-pound poise by the use of the

8-pound poise. Where a platform or other scale is used, similar tests of accuracy will be made. Officers assigned to industrial alcohol plants, industrial alcohol bonded warehouses, or denaturing plants will from time to time test the weighing devices used at these establishments.

PAR. 8. Where weighing beams are used, care will be taken at all times to note the correct reading of the scale to the half pound, and, in case of doubt as to which notch shall be read, the cask will be allowed to preponderate; that is, the notch denoting the lesser weight will be read.

PAR. 9. (a) Proprietors of distilleries; fruit distilleries; internal revenue bonded warehouses; industrial alcohol plants; alcohol bonded warehouses; denaturing plants; rectifying plants which tax-pay rectified products by weight; and bonded wineries which fortify wines or tax-pay wines by weight, will provide, at their own expense, a set of ten 50-pound cast iron test weights, which shall be certified by the National Bureau of Standards or State departments of weights and measures as conforming with class "C" requirements of the National Bureau of Standards; provided, however, test weights need not be provided at wineries that (1) receive brandy or spirits—fruit exclusively by pipe line from a contiguous fruit distillery or internal revenue bonded warehouse where the spirits are gauged in a weighing tank immediately before transfer to the winery and are run directly into the fortifying tank containing the wine to be fortified, as provided in paragraphs 260, 261, and 262 of Regulations No. 7; or (2) tax-pay wine by weight and have the scales used to weigh the wine checked and their accuracy certified to by State, county, or city departments of weights and measures at intervals of not less than six months. If the proprietor operates one or more of the enumerated establishments on the same or contiguous premises, only one set of test weights need be provided.

(b) Test weights now in the possession of proprietors which conform to the requirements of this regulation may be continued in use, provided that such weights are certified by the National Bureau of Standards, or State, city, or county departments of weights and measures as accurate.

(c) The test weights shall be placed under the control and in the custody of the storekeeper-gaugers in charge, and will be used frequently by Government officers to check all scales used in the plant or warehouse.

## ARTICLE III—THE WEIGHING SYSTEM

*Examination of Casks Before Weighing*

PAR. 10. Before weighing empty casks or packages, officers will examine them, and will not permit the use of any cask or package which contains or has on its interior or exterior any substance that will prevent the correct ascertainment of the tare.



*Weighing Casks of Spirits on Filling*

PAR. 11. The weight (tare) of the empty cask will be determined immediately preceding the filling of the same in all cases; provided, however, the tare of a number of casks may be ascertained and marked before any are filled, but not exceeding the number which are to be filled the same day or the following day. If the barrels are not to be filled until the following day, they must be locked in the cistern room (receiving room or brandy deposit room of a fruit distillery) after being weighed and marked. The tare, or weight of the empty cask or package, will be marked on the package as soon as ascertained in the manner hereinafter provided.

PAR. 12. When the cask or package has been filled, the gross weight will be ascertained in pounds and half pounds, except as hereinafter provided in the case of small packages of alcohol, and the net weight determined by subtracting the tare from the gross weight.

PAR. 13. (a) When reducing proof of spirits in the cistern care must be taken to accomplish the reduction to a whole or complete degree of proof. Reducing spirits in the cistern to a point where a part of a degree, from 0.1 to 0.4 above a full degree, will be the true proof will not be permitted.

(b) The proof of spirits in the receiving cistern will be ascertained before any packages are filled or spirits removed by pipe line. The spirits in the cistern must be thoroughly agitated before taking the proof. The proof so ascertained will be regarded as the proof of the spirits run into all packages filled from the cistern and all spirits removed by pipe line. However, the proof of the spirits in the cistern will be checked several times while spirits are being drawn off. After the spirits have been proofed and the weighing has been performed, the wine-gallon and proof-gallon contents of the cask will be found as directed under the head of "Determination of net wine gallons and proof gallons."

PAR. 14. All mechanical labor pertaining to the weighing of packages shall be performed by the distiller or warehouseman. During the process of weighing the storekeeper-gauger shall personally verify the weight of each empty or filled package and record it in the proper column of the gauge sheet, Form 1520. The storekeeper-gauger shall also verify the gross weight, tare, net weight, wine gallons, proof, and proof gallons marked on the packages as hereinafter provided, by comparison with Form 1520, and shall satisfy himself as to the accuracy and correctness of the marks and brands, and stamps (if any).

*Filling of Packages*

Capacity of Remnant Packages To Be Determined by Weighing and Marked on Packages—Method of Finding Capacity Described

PAR. 15. All packages of distilled spirits below 150 proof will be filled to capacity,

except (1) where upon suspension of distilling operations there are insufficient spirits to fill the last package completely, or (2) where, upon application and proper showing, the Commissioner may authorize a certain wantage or content per package to permit subsequent heating of the spirits in warehouse or reduction in proof in the original package upon tax payment, or for other valid reason. In such cases notation showing the wantage allowed, or that a uniform quantity was placed in each package, or that the package was a remnant, as the case may be, will be made by the storekeeper-gauger on Form 1520 covering the entry gauge of the packages.

PAR. 16. Where a package of distilled spirits, other than alcohol, is filled with less than 40 wine gallons, corrected to volume at 60° F., the capacity of the package will be determined, marked on the package as hereinafter provided, and reported on Form 1520 or Form 59½, as the case may be.

PAR. 17. Where it is apparent that it will be necessary to fill a remnant package, as above provided, the capacity of the cask to be used for such remnant will be ascertained by completely filling same from the cistern before drawing off the last full package. After the package has been weighed and the capacity thereby determined, the contents will be returned to the cistern or transferred to another package.

PAR. 18. The proof of the spirits used in determining the capacity of the cask or package must be carefully ascertained immediately preceding such weighing, and if overflow of spirits occurs during this determination, by reason of the insertion of a pipette or thief into the cask, the spirits so lost will be replaced prior to weighing for capacity.

PAR. 19. The weight and proof of the contents of the full cask having been determined, the wine gallons thereof at 60° F. will be ascertained by reference to table No. 2. The true capacity of the cask at 60° F. will then be determined in accordance with table No. 7. For example: The contents of the full cask are found to have a hydrometer reading of 115, a temperature of 92° F., and a net weight of 348 pounds. We find by table No. 1 that the proof of the spirits is 102.1 and by table No. 2 that the cask contains 44.82 wine gallons. We then find by table No. 7 that the correction factor for spirits of 102 proof and 92° F. temperature is 0.985, which divided into 44.82 (the wine gallons) gives 45.50 wine gallons as the true capacity of the cask at 60° F.

PAR. 20. The capacity of the cask, determined as above directed, will be cut on the stave immediately adjacent to the bung-hole and on the side thereof opposite to the Government head.

ARTICLE IV—PROOFING DISTILLED SPIRITS  
*Hydrometers*

PAR. 21. Standard hydrometers, for determining the proof of distilled spirits,

are supplied for the use of storekeeper-gaugers, at the expense of the Government, on the application of district supervisors. The use of other than standard instruments by storekeeper-gaugers is prohibited.

PAR. 22. Neither full nor partial sets should be ordered in excess of the demands of the service. Where, however, the needs of the service justify, a limited supply of hydrometer stems and thermometers will be furnished to district supervisors on requisition, in order that loss by breakage may be replaced without delay.

PAR. 23. An extra complete set will be furnished, to be retained in the district supervisor's office for use in testing the other instruments in the district.

PAR. 24. The extra set on hand for such use will be issued to a storekeeper-gauger requiring the same, on the receipt of a new set, so that the set last received will be constantly retained for use as a standard.

PAR. 25. District supervisors will cause the Government instruments within a reasonable distance to be tested against the standard set at stated intervals, and all the sets, including the thermometers, in the district must be tested as often as once in six months.

PAR. 26. Storekeeper-gaugers shall make frequent tests of the instruments, including the thermometer, in their possession by comparing, in spirits of the proper strength, a stem of a lower per cent with the stem of the next higher per cent, at or between the points where both stems indicate the same per cent, and by checking the thermometers against each other at different temperatures.

PAR. 27. When requisition is made for sets of hydrometers to replace defective ones, the nature of the defect must be explicitly stated; and also whether the defect is in the stems, the cup, the thermometer, or the case. When extra stems are required, they should be designated by letter or number as classified in paragraph 39 herein.

PAR. 28. Requisition for hydrometer stems should be made to complete sets only so far as the needs of the service require. It is not necessary in all instances that the gauging officer shall be supplied with a full complement of hydrometer stems, as one or two stems will be sufficient for the use of many officers.

PAR. 29. These instruments are necessarily expensive, in consequence of the strict accuracy required in their manufacture, and officers are therefore expected to exercise care in their use.

PAR. 30. Broken hydrometer stems and thermometers will not be returned to the Commissioner. If, however, such instruments are found to be incorrect and unbroken, they will be carefully packed and returned to the Commissioner; and to each instrument a statement showing the nature and extent of its inaccuracy, and where and by whom it was used, should be attached.



PAR. 31. Proprietors of industrial alcohol plants, industrial alcohol bonded warehouses, rectifying plants, tax-paid bottling plants, and denaturing plants will provide standard hydrometers for their own use in determining the proof of spirits.

*Instructions for Determining Temperature and Indication of Spirits*

PAR. 32. To find the true temperature, the hydrometer cup will be filled with spirits drawn from the center of the cask by means of a pipette or thief, or from a tank or cistern after thorough agitation of the spirits, and placed where no draft, fire, ice, snow, or other cause will influence it against the temperature of the spirits. When the temperature of the spirits varies from that of the surrounding atmosphere, or in case the hydrometer cup shall have been brought from an atmosphere of a different temperature from that of the spirits, the cup will be filled and emptied until the mercury in the thermometer ceases to move upward or downward, as the case may be, when the hydrometer stem will be immediately inserted into the spirits in the cup and the indication of the stem and of the thermometer read instantly and as nearly simultaneously as possible.

PAR. 33. The stem must be clean and dry, and should not be permitted to drop into the spirits by its own weight, but be quickly and carefully immersed to the point where it will be sustained by the spirits, when the indication will be read as soon as the stem ceases to oscillate.

PAR. 34. In reading the indication of proof upon the stem, any unusual condition which is likely to interfere in determining the true indication should be noted and corrected, such as the capillary action of the spirits or the collection of air bubbles on the surface of the liquid. The first line designating whole degrees of proof below the general surface of the liquid will be read and the fraction of a degree of proof between the submerged line and the general surface of the spirits noted. The true per cent of proof at 60° F. is then determined by consulting the table.

For example, if the 178 line on the stem is the first whole line below the general surface of the spirits at 75° F., the proof corrected to 60° F. would be 173.5, plus the fraction of a degree of proof the 178 line is below the bottom of the meniscus of the liquid. If this fraction is 0.7 of a degree of proof, the true proof would be 173.5, plus 0.7, or 174.2, to be called 174.0°.

PAR. 35. Persons gauging spirits are occasionally misled as to the exact position of the first whole line below the general surface of the spirits, to the detriment of the revenue. By inserting the stem in spirits contained in a glass vessel and placing the eye alternately on a level with the bottom of the meniscus of the spirits,

looking through the glass, and then in the position usually assumed when reading the indication of the spirits while in the hydrometer cup, the person reading the stem will be enabled to inform himself as to which particular line is to be read.

PAR. 36. The true indication of the hydrometer and thermometer being determined, the true per cent of proof will be found opposite the "Hydrometer reading," stated in the left-hand margin, and beneath the "Temperature" or indication of the thermometer, stated in the upper margin in table No. 1 herein.

PAR. 37. In reading the true per cents of proof, as shown in the table, fractions under five-tenths will be dropped and fractions of five-tenths or more will be called a whole number.

PAR. 38. Proof spirit is held to be that alcoholic liquor which contains one-half its volume of pure ethyl alcohol of a specific gravity of 0.7939 at 60° F., referred to water at 60° F. as unity. (See sec. 3249, Revised Statutes)

PAR. 39. This proof will be indicated on the hydrometer at 100 when the temperature of the spirit is 60°. When at 60° the hydrometer indicates a less per cent than 100, the spirit is said to be below proof, and the number of proof gallons will be less than the number of wine gallons by the same per centum, in which case the tax is upon the wine gallons. (See sec. 600 (a), Revenue Act of 1918, as amended) When above 100, the proof gallons will be greater than the wine gallons by the same per centum. The scale of the United States standard hydrometer is so divided that the per cents of proof, as established by law, are shown, instead of the per cents of alcohol. "A" stem reads from 0 to 100, "B" stem from 80 to 120, "C" stem from 100 to 140, "D" stem from 130 to 170, and "E" stem from 160 to 206.

ARTICLE V—DETERMINATION OF NET WINE GALLONS AND PROOF GALLONS

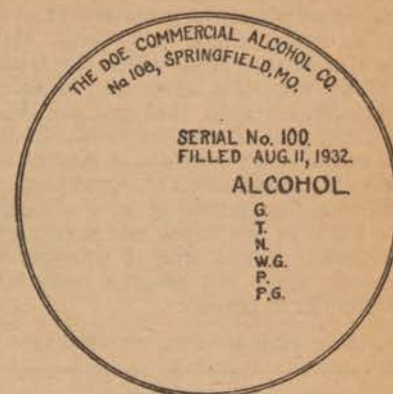
PAR. 40. After having determined the net weight and proof of the contents of the cask, its actual wine-gallon and proof-gallon contents may be found by reference to table No. 2.

PAR. 41. In case, however, the net weight or proof of the contents of the cask should be other than shown in that table, the proof-gallon contents may readily be ascertained by reference to table No. 3 herein. The wine gallons will be found by dividing the proof gallons by the proof.

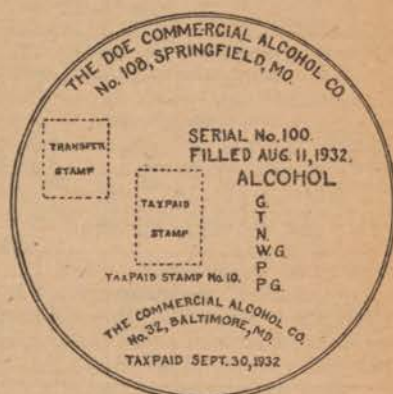
ARTICLE VI—GAUGING, MARKING, AND STAMPING PACKAGES OF ALCOHOL

PAR. 42. All packages of alcohol will be carefully weighed, proofed, marked, and stamped by the proprietor of the plant or warehouse upon filling and withdrawal, as provided in Regulations 3 and as illustrated in the following cuts, which also show the suggested order and man-

ner in which the marks and stamps shall be applied:



Marks on Filling or Entry Into Warehouse.



Marks on Tax Payment.



Marks on Withdrawal for Export.

(Data, except the name and address of the producer and the kind of spirits, may be appropriately abbreviated where desired.)

All marks on Government heads of metal packages must be made in a single color distinctly in contrast with the color of the heads.

*Filing and Marking Small Packages of Alcohol Weighed to Ounces*

PAR. 43. Where it is desired to market packages of alcohol containing exactly



1, 2, 5, and 10 wine gallons, which would require weighing in terms of pounds and ounces, such packages may be filled at warehouses where the proprietors thereof provide scales which will weigh accurately to ounces, from which the weight to hundredths of a pound can be calculated. Where such packages are filled, the ounces will be reduced to hundredths of a pound and the weight in pounds and hundredths marked on the packages.

PAR. 44. The following table will serve as a guide in the filling and marking of packages of 1, 2, 5, and 10 wine-gallons capacity where the weights have been determined in ounces:

*Filling and Marking of Packages*

Type of container	Weight of contents	Weight to be marked on package	Contents in wine gallons	Proof gallons
FOR 190 PROOF ALCOHOL				
	Lbs.	Ozs.	Pounds	
1 wine gallon.....	6	13	6.81	1
2 wine gallons.....	13	10	13.62	2
5 wine gallons.....	34	00	34	5
10 wine gallons.....	68	00	68	10
FOR 192 PROOF ALCOHOL				
	Lbs.	Ozs.	Pounds	
1 wine gallon.....	6	13	6.81	1
2 wine gallons.....	13	9	13.56	2
5 wine gallons.....	33	13	33.81	5
10 wine gallons.....	67	10	67.63	10
FOR 200 PROOF ALCOHOL				
	Lbs.	Ozs.	Pounds	
1 wine gallon.....	6	10	6.62	1
2 wine gallons.....	13	4	13.25	2
5 wine gallons.....	33	1	33.06	5
10 wine gallons.....	66	2	66.12	10

(Where packages filled contain over 10 wine gallons and show a fraction of 0.98 or 0.99 of a wine gallon, such fraction may be called a whole gallon and the package so marked, if desired, as a package containing 24.99 wine gallons may be marked 25 wine gallons.)

PAR. 45. In any cases where the foregoing table will not apply for any reason, such as the filling of packages with alcohol of a proof other than is specified in such table, the following rule may be used for ascertaining the weight of the alcohol to be placed in and marked on the package: Divide the number of gallons representing the quantity of alcohol to be placed in the container by the fractional part of a gallon equivalent to 1 pound, to obtain the weight of the alcohol in pounds and fractions of a pound to two decimal places. Reduce the decimal fraction of a pound to ounces by multiplying by 16, calling any fraction of an ounce a whole ounce. The pounds and ounces thus obtained will determine the point to which the alcohol must be weighed to produce the results desired. In order, however, to mark the weight on the package in pounds and fractions of pounds, it will be necessary to reduce the ounces to ex-

press same in fractions to two decimal places.

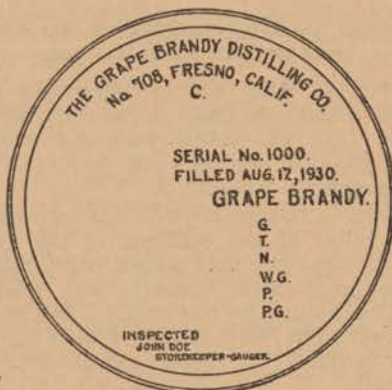
PAR. 46. The fraction of a gallon equivalent to 1 pound at any given proof will be ascertained by reference to table No. 4 of this Manual. For example, where it is desired to fill a 1-gallon can of 194° proof alcohol with precisely 1 wine gallon, the weight of the alcohol to be placed in the can will be determined as follows:

1.00 ÷ .14866 = 6.73 lbs.  
 $.73 \times 16 = 11.68$  ozs., to be called 12 ozs.  
 Weight of alcohol 6 lbs., 12 ozs.  
 Weight to be marked on can 6.75 lbs.

PAR. 47. Packages of alcohol so filled and marked may not be transferred in bond to other bonded warehouses unless such warehouses are equipped with scales capable of weighing in ounces.

#### ARTICLE VII—MARKING PACKAGES OF BRANDY TRANSFERRED DIRECT FROM THE DISTILLERY TO THE WINERY ON CONTIGUOUS PREMISES

PAR. 48. When brandy is to be removed to the fortifying room of the winery on contiguous premises under the immediate supervision of the storekeeper-gauger, there will be legibly cut or stenciled upon the head of the package in figures and letters, large enough to be easily read, the gross weight, tare, net weight, wine gallons, proof, proof gallons (retaining fractions of gallons in all instances to hundredths), the serial number of the package, the name of the distiller, the registered number of the distillery, the city or town and State in which the distillery is located, and the date the package is filled. The kind, in accordance with paragraph 60 (b) and (f) of this Manual, will also be cut or stenciled on the head of the package in letters not less than 1 inch in height.



(Data, except the name and address of the producer and the kind of spirits, may be appropriately abbreviated where desired.)

#### ARTICLE VIII—RAILROAD TANK CARS OF ALCOHOL

PAR. 49. Where alcohol is shipped in railroad tank cars, it must be carefully weighed and proofed, and the tank cars marked and labeled as provided in Regulations 3, as amended. If the alcohol is

shipped in bond, a transfer stamp must be affixed to the tank car prior to its release for shipment, and effaced and obliterated immediately upon the emptying of the tank car, as provided by Regulations 3. If the alcohol is tax-paid, a collector's certificate of tax payment must be attached as provided by Treasury Decision 4733. The certificate must be scalped at the time the car is emptied and sent by the proprietor to the supervisor of the district in which the vendee is located.

#### ARTICLE IX—TANK CARS OF SPIRITS PRODUCED AT REGISTERED DISTILLERIES

PAR. 50. When brandy for use in the fortification of wine is withdrawn from receiving cisterns of distilleries, or from warehouse storage tanks, and shipped in railroad tank cars, it must be carefully weighed and proofed by the storekeeper-gauger, and each tank car must have permanently and legibly marked or painted thereon its number, capacity in wine gallons, and name of the owner, and must be so constructed that all openings may be securely locked. A certificate, dated and signed by the Government officer, showing that the brandy is shipped in bond for fortification and giving the name, registered number, and location (city or town and State) of the distillery from which shipped, and the winery to which shipped, shall be securely attached to some conspicuous and secure place on the tank car where it may be readily examined by Government officers. The certificate will be in substantially the following form:

Shipped in bond by  
 CALIFORNIA GRAPE COMPANY  
 F. D. No. 80, St. Helena, Cal., 14th Dist.  
 to  
 WESTERN WINE COMPANY  
 B. W. No. 50, Santa Rosa, Cal., 14th Dist.  
 For fortification of wine.

(Date) (Storekeeper-Gauger)

The kind must be stated in Form 1520 in accordance with paragraph 60 (b) and (f) of this Manual.

PAR. 51. Where spirits (other than brandy for the fortification of wine) produced at a registered distillery are shipped in bond in railroad tank cars, such spirits must be carefully weighed and proofed by the storekeeper-gauger, and the tank cars must be marked and bear certificates showing that the shipment is in bond, as provided in Treasury Decisions 4650 and 4651.

PAR. 52. Where spirits produced at a registered distillery are withdrawn tax-paid, and shipped in tank cars, a collector's certificate of tax payment must be affixed as provided by Treasury Decision 4733 and disposed of as provided by paragraph 49 hereof.

#### ARTICLE X—PACKAGING OF DISTILLED SPIRITS

PAR. 53. Section 3287, Revised Statutes, as amended by section 201 of the Liquor Tax Administration Act of June 26, 1936



(Public, No. 815, Seventy-fourth Congress), and the regulations issued pursuant thereto, require that (except as otherwise provided by section 602 of the Revenue Act of 1918, as amended by section 308 of the Liquor Tax Administration Act (see paragraph 54), and section 4 of the Act of June 15, 1938) all spirits (other than high-proof rum) distilled at a registered distillery shall be drawn from the receiving cisterns into casks or packages, each of not less capacity than 10 gallons, wine measure, and shall thereupon be gauged, proofed, and marked, and immediately removed into an internal revenue bonded warehouse: *Provided*, That distilled spirits may, for the purpose of exportation only, be drawn into wooden packages, each containing two or more metallic cans, which cans shall each have a capacity of not less than five gallons, wine measure.

PAR. 54. Section 602, Revenue Act of 1918, as amended, and the regulations issued pursuant thereto, authorize the drawing into such casks or packages, of distilled spirits reduced in the receiving cisterns of registered distilleries to not more than 159 and not less than 100 degrees of proof, and require that any casks or packages so filled shall be gauged, proofed, and marked. (For removals by pipe line or railroad tank car, see T.D. 4650)

ARTICLE XI—MARKING AND BRANDING CASKS OR PACKAGES OF SPIRITS DISTILLED AT A REGISTERED DISTILLERY WHEN FILLED FROM RECEIVING CISTERNS AND WAREHOUSE STORAGE TANKS

PAR. 55. When spirits distilled at a registered distillery are drawn from the receiving cisterns thereof or from storage tanks in a bonded warehouse, into packages, either for storage in a bonded warehouse or for immediate withdrawal, each package will be weighed, proofed, marked, and branded.

PAR. 56. The name of the distiller or the person in whose name the spirits were produced, the registered number of the distillery, the city or town and State in which the distillery is located, and the kind of spirits will be plainly burned or imprinted in black letters and figures sunk into the wood upon the head of each package. The serial number of the package, the kind of cooperage, as charred, recharred, plain, paraffined, glued, or reused (not recharred), and the date of filling will also be burned or cut upon the head of the package. The kind of cooperage may be abbreviated as "C" for charred, "REC" for recharred, "P" for plain, "PAR" for paraffined, "G" for glued, and "R" for reused (not recharred). If a barrel has been steamed or water-soaked prior to filling, the letters "P. S." (presoaked) will follow the letter or letters indicating the kind of cooperage. Such marks and brands shall be placed upon the packages in letters and figures not less than three-fourths inch in height or one-half inch in the case of half-barrels. The proof at

which the spirits were distilled shall be plainly and durably stenciled upon the head of the package in letters and figures not less than one-half inch in height. Where metal packages are used, these marks and brands (other than kind of cooperage) will be plainly and durably stenciled, imprinted, or embossed upon the head of each package. The head of the package bearing these marks will be known as the "Government head." No marks other than those required by these regulations shall be placed upon the Government head of the package.

PAR. 57. In addition to the foregoing marks and brands, there shall be plainly burned or cut into the Government head of wooden packages or plainly and durably stenciled, imprinted, or embossed upon such head of metal packages filled from a bonded warehouse storage tank, the date of the original entry of the spirits for deposit, the warehouse number, and the State in which located. This additional data may also be abbreviated, as "Orig. Ent. 5-19-36" for the date of the original entry for deposit, and "I. R. B. W. 4—N. Y." for warehouse number and State.

PAR. 58. The date of tax payment, the proof-gallon contents, and the serial number of the tax-paid stamp shall, upon tax payment of wooden packages in the distillery cistern room, be cut into the Government head of each package in the manner prescribed by paragraph 75 in the case of tax payment from bonded warehouses. Such marks shall, upon the tax payment of metal packages, be plainly and durably stenciled upon the Government head of each package.

PAR. 59. The gross weight, tare, net weight, wine gallons, proof, and proof gallons will be cut upon the stave to the left of the bung stave of each wooden package in the order named, beginning in the middle of such stave and extending toward the Government head. On metal packages these marks will be plainly and durably stenciled upon the Government head. Where the spirits so packaged are 100 proof, the number of proof gallons need not be placed upon the package.

PAR. 60. The kind of spirits and the proof at which distilled will be branded on the Government head of the package as follows:

(a) The proof at which the spirits were distilled shall be shown by the legend "Distilled 190 Proof or over," "Distilled between 160 and 190 Proof," or "Distilled not over 160 Proof," as the case may be, in letters and figures not less than one-half inch in height. The following symbols may be used as the equivalent of the specified markings: "D 190 P" for "Distilled 190 Proof or over," "D 160-190 P" for "Distilled between 160 and 190 Proof," and "D 160 P" for "Distilled not over 160 Proof."

(b) All spirits distilled at or above 190 degrees of proof shall be branded "Spirits," followed by a word or phrase

descriptive of the material from which distilled. Such branding shall be in the following form: "Spirits—Grain," "Spirits—Cane," or "Spirits—Fruit," etc. When fruit spirits are produced for fortification the words "Spirits—Fruit" branded on the package, will be followed by the name of the fruit from which produced.

(c) Spirits distilled from a fermented mash of grain at less than 190 degrees of proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to whisky and withdrawn from the cistern room of the distillery at not more than 110 degrees and not less than 80 degrees of proof, shall be branded "Whisky," except as provided in subparagraph (d).

(d) (1) Spirits distilled at not exceeding 160 degrees of proof from a fermented mash of not less than 51 per cent rye grain, corn grain, wheat grain, malted barley grain, or malted rye grain, withdrawn from the cistern room of the distillery at not more than 110 degrees and not less than 80 degrees of proof, and packaged in charred new oak containers, shall be branded "Rye Whisky," "Bourbon Whisky," "Wheat Whisky," "Malt Whisky," or "Rye Malt Whisky," respectively.

(2) Spirits distilled at not exceeding 160 degrees of proof from a fermented mash of not less than 51 per cent rye grain, corn grain except as provided in the next paragraph, wheat grain, malted barley grain, or malted rye grain, withdrawn on and after the effective date of this Manual from the cistern room of the distillery at not more than 110 degrees and not less than 80 degrees of proof, and packaged in reused cooperage, shall be branded "Whisky." Such spirits shall be further marked, either by branding or stenciling, with the words "Distilled from Rye (or Bourbon, Wheat, Malt, or Rye Malt) Mash," as the case may be.

(3) Spirits distilled at not exceeding 160 degrees of proof from a fermented mash of not less than 80 percent of corn grain, withdrawn on and after March 1, 1938, from the cistern room of the distillery at not more than 110 degrees and not less than 80 degrees of proof, and packaged in uncharred oak containers, or reused charred oak containers, and not subjected, in the process of distillation or otherwise, to treatment with charred wood, shall be branded "Corn Whisky."

(e) Spirits obtained by original distillation over or with juniper berries and other aromatics customarily used in the production of gin, and deriving their main characteristic flavor from juniper berries, shall be branded "Gin," and to show the material from which produced, as "Distilled from grain," or "Distilled from cane products," or "Distilled from fruit."

(f) Spirits obtained solely from the fermented juice or mash of fruit distilled at less than 190 degrees of proof in such



manner that the spirits possess the taste, aroma, and characteristics generally attributed to brandy shall be branded "Brandy," preceded by the name of the fruit used, as "Apple Brandy," "Grape Brandy," "Peach Brandy," "Cherry Brandy," "Apricot Brandy," "Orange Brandy," and "Raisin Brandy," and if other than whole fresh fruit is used, the word "Dried" or such other term as may be appropriate: *Provided*, That (1) brandy derived from raisins will be designated as "Raisin Brandy," and (2) the word "Brandy" alone may be used to designate grape brandy.

(g) Spirits distilled from the fermented juice of sugarcane, sugarcane sirup, sugarcane molasses, or other sugarcane products, at less than 190 degrees proof in such manner that the spirits possess the taste, aroma, and characteristics generally attributed to rum, shall be branded "Rum."

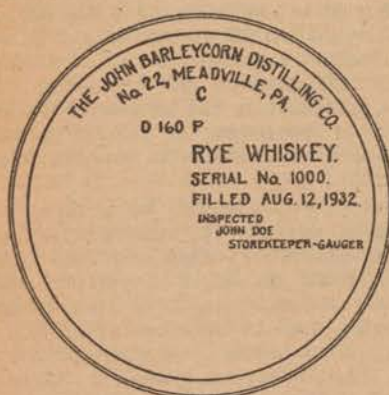
(h) Packages containing spirits produced by the sour mash method may be so marked on the Government head at the time of filling.

(i) If a distiller proposes to produce spirits not included in any of the classes enumerated in this paragraph, he must first apply to the Federal Alcohol Administration for a designation for such spirits and they will be branded accordingly.

(j) Whisky, rye whisky, wheat whisky, malt whisky, rye malt whisky, bourbon whisky, or corn whisky, as defined in subparagraphs (c) and (d) of this paragraph, produced on or after March 1, 1938, which in whole or in part is treated with wood chips through percolation or otherwise, during distillation or storage, shall be further marked, either by branding or stenciling, with the words "Treated with oak chips."

PAR. 61. There will also be stenciled on the Government head of the package the word "Inspected," followed by the name and title of the storekeeper-gauger.

PAR. 62. The following cut illustrates the order and manner in which the marks shall be applied to the head of each package:



(Data, except the name and address of the producer and the kind of spirits, may be appropriately abbreviated where desired.)

#### ARTICLE XII—CHANGE OF PACKAGE IN INTERNAL REVENUE BONDED WAREHOUSE TO PREVENT LOSS BY LEAKAGE

PAR. 63. When it becomes necessary, in order to prevent leakage or wastage, to transfer the contents of a package in warehouse to another package, the transfer will be effected under the immediate supervision of the storekeeper-gauger. The new package must be of the same kind of cooperage, except as hereinafter provided, and of approximately the same capacity as the original package and must be given the same serial number, marks, and brands as the original package.

PAR. 64. The storekeeper-gauger will take the tare of the new package before transfer of the spirits, and upon completion of the transfer will make a report thereof to the district supervisor, who will furnish the officer with a label signed by him to be affixed to the head of the new package in the manner herein prescribed for the affixing of tax-paid stamps. The label shall be in the following form:

The spirits contained in this package, serial No. \_\_\_\_\_, were transferred to new barrel under date of \_\_\_\_\_. Upon withdrawal of this package, the storekeeper-gauger will determine the total tare by adding the soakage allowance to \_\_\_\_\_ pounds, the weight of this barrel before spirits were placed therein, unless actual tare is taken.

(District Supervisor)  
District No. \_\_\_\_\_

Allowance for soakage will be made only for the new barrel when withdrawn. No allowance will be made for soakage in the original barrel.

#### ARTICLE XIII—CHANGE IN KIND OF COOPERAGE IN INTERNAL REVENUE BONDED WAREHOUSE

PAR. 65. In any case where the owner of distilled spirits in an internal revenue bonded warehouse desires to change the kind of cooperage, as, for example, to transfer the spirits from a plain or re-used package to a charred package, or vice versa, request for such transfer must be made to the district supervisor by the proprietor of the warehouse in which the spirits are stored, giving the serial number of the package or packages, kind of original cooperage, kind of cooperage desired to be used, name of the distiller, registered number and location (city or town and State) of the distillery at which the spirits were produced, and the reason for which the change is desired.

PAR. 66. The district supervisor will forward the request to the Commissioner with his recommendation. If approved, the Commissioner will so notify the district supervisor, who will direct the transfer to be made under the immediate supervision of the storekeeper-gauger in charge of the warehouse.

PAR. 67. Each new package will be given the same serial number, marks, and brands as the original package, and will contain only spirits from one package. The storekeeper-gauger will take the tare of the new package before the transfer, and upon completion of the transfer will make a report thereof to the district supervisor, who will furnish the officer with a label signed by him to be affixed by the proprietor to the head of each new package in the manner herein prescribed for the affixing of tax-paid stamps. The label shall be in the following form:

The spirits contained in this package, serial No. \_\_\_\_\_, were transferred to new \_\_\_\_\_ barrel under date \_\_\_\_\_ (kind of cooperage) of \_\_\_\_\_ by authority of Department letter dated \_\_\_\_\_. The package from which the spirits herein were transferred was a \_\_\_\_\_ (kind of cooperage) barrel. Upon withdrawal of this package the storekeeper-gauger will determine the total tare by adding the soakage allowance to \_\_\_\_\_ pounds, the weight of this barrel before spirits were placed therein, unless actual tare is taken.

Allowance for soakage will be made only for the new barrel when withdrawn. No allowance will be made for soakage in the original barrel.

#### ARTICLE XIV—SPIRITS IN INTERNAL REVENUE BONDED WAREHOUSE NOT EXCEEDING 30 DAYS NEED NOT BE REGAUGED UPON WITHDRAWAL OR TRANSFER IN BOND

PAR. 68. Distilled spirits, other than alcohol produced under Title III of the National Prohibition Act, may be withdrawn from an internal revenue bonded warehouse on the original gauge, where the same have remained in such warehouse for a period not exceeding 30 days from the date of the original gauge.

PAR. 69. If the storekeeper-gauger notes any circumstances indicating that a package (or packages) of spirits has been tampered with, or if he has reason to believe that any package contains more spirits than shown by the original gauge, or materially less spirits, a careful regauge will be made by the storekeeper-gauger of such package or packages before withdrawal or transfer in bond.

PAR. 70. In the event a regauge is made upon withdrawal or transfer in bond of any package or packages which have remained in the warehouse for a period not exceeding 30 days from the date of original gauge, the storekeeper-gauger will note on Form 1520 the reason for such regauge.

#### ARTICLE XV—GAUGING, MARKING, AND STAMPING PACKAGES OF DISTILLED SPIRITS UPON WITHDRAWAL FROM INTERNAL REVENUE BONDED WAREHOUSE

PAR. 71. When distilled spirits, other than alcohol produced under Title III of the National Prohibition Act, are to be withdrawn from warehouse, they will be carefully regauged by the storekeeper-



gauger, except when the proprietor does not request a regauge and they are withdrawn on the original gauge as hereinbefore provided.

#### Withdrawal for Transfer in Bond

PAR. 72. At the time of removal from warehouse for transfer in bond to another warehouse each package will be weighed and the gross weight entered in Form 236. Packages are not required to be weighed upon arrival at the receiving warehouse unless there has been a loss by theft or casualty.

PAR. 73. Upon the withdrawal of distilled spirits in packages for transfer to another bonded warehouse, the word "Transferred," followed by the date of transfer, the word "To," the number of the receiving warehouse, and the State in which such warehouse is located, will be plainly and durably stenciled upon the Government head of the package in letters and figures not less than one-half inch in height. These marks may be abbreviated as follows:

Transferred Aug. 1, 1936

To I. R. B. W. 4—N. Y.

PAR. 74. When the packages are received at the warehouse to which transferred, they will be carefully examined by the storekeeper-gauger, and in case there appears to be a material deficiency between the actual contents and the quantity shipped, or there are any circumstances indicating that the spirits have been tampered with, the officer will make a careful regauge of the packages and make a report thereof on Form 1520 and by letter to the district supervisor, who will advise the Commissioner.

#### Withdrawal for Tax Payment

PAR. 75. Spirits regauged for tax payment must be tax-paid and removed at once. Upon regauge for tax payment of distilled spirits in distiller's original packages, the proprietor of the warehouse will, under the supervision of the storekeeper-gauger, cut on the stave to the right of the bung stave of each package withdrawn, beginning in the middle and extending toward the Government head, in the order named, the gross weight, tare (ascertained as herein provided), net weight, wine gallons, proof, and proof gallons determined at the time of withdrawal, except when withdrawn on the original gauge as provided in paragraph 68, or when the packages are to be removed to the bottling-in-bond room; or moved to a tax-paid bottling plant for immediate bottling or to a rectifying plant for immediate bottling or dumping for rectification, when such tax-paid bottling plant or rectifying plant is in the immediate vicinity of the warehouse and owned by the proprietor of the warehouse or a subsidiary, the supervisor to determine from all the circumstances in each case whether the warehouse and the rectifying or tax-paid bottling plant

are in the immediate vicinity. In the case of metal packages, such marks will be plainly and durably stenciled in the corresponding space on the side of the package. The tax-paid stamp must be affixed to the Government head of the package and canceled, as hereinafter provided, and, except as provided in paragraph 77, the date of tax payment, the proof-gallon contents, and the serial number of the tax-paid stamp shall be cut upon such head of each wooden package or plainly and durably stenciled upon such head of each metal package. The following cut illustrates the manner in which the head of the package will be marked, branded, and stamped:



(Data, except the name and address of the producer and the kind of spirits, may be appropriately abbreviated where desired.)

PAR. 76. The requirements prescribed in paragraph 75 relative to marking distillers' original packages on withdrawal for tax payment, will apply also to packages filled from tanks in warehouse and which have remained in warehouse more than 30 days before withdrawal for tax payment.

#### Withdrawal for Bottling in Bond

PAR. 77. When distilled spirits are withdrawn for bottling in bond before or after tax payment, or for export, it will not be necessary to cut the gross weight, tare, net weight, wine gallons, proof, and proof-gallons on the stave, nor (if tax-paid) the date of tax payment, proof-gallon contents, and number of the tax-paid stamp upon the Government head of the package. There will, however, be stenciled on the Government head of each package withdrawn for bottling the words "Withdrawn for bottling," followed by the date of removal to the bottling warehouse and the name and title of the storekeeper-gauger. Where the tax has been paid, the tax-paid stamp will be securely affixed to the package and canceled, as herein provided.

#### Withdrawal for Exportation

PAR. 78. When spirits, other than alcohol produced under Title III of the National Prohibition Act, are withdrawn

from a bonded warehouse and intended for export, the proprietor will affix and cancel the export stamp as herein provided.

PAR. 79. There will also be cut or burned into the Government head of each package withdrawn for export, in letters and figures not less than one-half inch in height, the date of withdrawal, the number of the export stamp, and the proof-gallon contents as then ascertained. When spirits are withdrawn from a warehouse other than that in which originally deposited, the number of the warehouse and the State in which located will be cut or burned into the head of the package in addition to the original marks placed on the package. The names of the ports from and to which the spirits are to be exported will be marked on the heads of the packages. Where metal packages are used, all of the foregoing marks will be plainly and durably stenciled on the Government head.

PAR. 80. There will be cut on the stave to the right of the bung stave, beginning at the middle and extending toward the Government head of the package, in the order named, the gross weight, tare (ascertained as provided herein), net weight, wine gallons, proof, and proof gallons. Where metal packages are used, these marks will be plainly and durably stenciled in the corresponding space on the side of the package. Such cutting, marking, or branding on the head will be as follows:

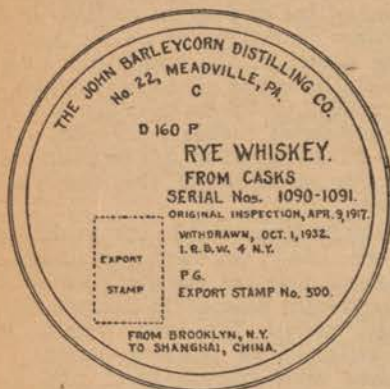


(Data, except the name and address of the producer and the kind of spirits, may be appropriately abbreviated where desired.)

PAR. 81. Whenever it is desired to change packages of spirits prior to withdrawal for exportation, the procedure provided therefor in Internal Revenue Regulations No. 29 will be followed. The storekeeper-gauger will carefully gauge both the original packages and the new packages, as provided in Regulations 2 and 29. The new package will be marked and branded like the original package as to the name of the distiller, registered number and location (city or town and



State) of the distillery, kind of spirits, and date of original inspection, in addition to being stamped and marked as provided in the preceding paragraph. Where the contents of an original package are transferred to one or more new packages, or two or more original packages are consolidated into one package, the new package will be marked with the words "From cask" or "From casks," as the case may be, followed by the serial number or numbers of the original package. The following cut illustrates the manner in which the new packages shall be marked, branded, and stamped:



(Data, except the name and address of the producer and the kind of spirits, may be appropriately abbreviated where desired.)

#### Withdrawal for Transfer to Manufacturing Warehouse

PAR. 82. When distilled spirits are withdrawn from bonded warehouse for transfer to manufacturing warehouse in bond under the provisions of section 20, Act of March 1, 1879, as amended, the storekeeper-gauger will affix and cancel the export stamps as herein provided. There will be cut or burned upon the Government head of each package, in letters and figures not less than one-half inch in height, the date of withdrawal, the number of the export stamp, and the number of proof-gallon contents as then ascertained. The name of the port to which the spirits are consigned for deposit in manufacturing warehouse will be plainly and durably stenciled upon the head of the package. There will also be cut on the stave to the right of the bung stave, beginning in the middle and extending toward the Government head, in the order named, the gross weight, tare (ascertained as provided herein), net weight, wine-gallons, proof, and proof-gallons. Where metal packages are used, these marks will be plainly and durably stenciled upon the Government head of the package, except that the gross weight, tare, net weight, wine gallons, proof, and proof gallons will be so stenciled in the space on the side of the package corresponding to that prescribed in the case of wooden packages.

Such cutting, marking, or branding on the head will be as follows:



(Data, except the name and address of the producer and the kind of spirits, may be appropriately abbreviated where desired.)

#### Withdrawal for Use of United States

PAR. 83. When distilled spirits are withdrawn from a bonded warehouse for the use of United States under section 3464, Revised Statutes, there will be cut on the stave to the right of the bung stave of each package withdrawn, beginning in the middle and extending toward the Government head, in the order named, the gross weight, tare (ascertained as herein provided), net weight wine gallons, proof, and proof gallons, determined at the time of withdrawal. In the case of metal packages, these marks will be plainly and durably stenciled in the space on the side of the package corresponding to that prescribed in the case of wooden packages.

PAR. 84. There will also be stenciled on the Government head of each package, in letters and figures not less than one-half an inch in height, the date and purpose of withdrawal, the number of proof-gallon contents as then ascertained, and the storekeeper-gauger's name, title, and district. Such marking on the head of the package will be as follows:

Withdrawn May 1, 1932.  
Use of U. S.  
P. G. 44.  
Richard Roe.  
U. S. Storekeeper-Gauger.  
6 Sup. Dist.

#### Withdrawal of Brandy for Fortification of Wine

PAR. 85. When brandy is withdrawn from a bonded warehouse for fortification of wine, there will be cut on the stave to the right of the bung stave of each package withdrawn, beginning in the middle and extending toward the Government head, in the order named, the gross weight, tare (ascertained as herein provided), net weight, wine gallons, proof, and proof gallons, determined at the time of withdrawal.

PAR. 86. There will also be stenciled on the Government head of each package, in letters and figures not less than one-half

an inch in height, the date and purpose of withdrawal, the number of proof-gallon contents as then ascertained, and the storekeeper-gauger's name, title, and district. Such marking on the head of the package will be as follows:

Withdrawn May 1, 1932.  
For Fortification of Wine.  
P. G. 44.  
Richard Roe.  
U. S. Storekeeper-Gauger.  
6 Sup. Dist.

#### ARTICLE XVI—REPORTS OF PRODUCTION, ENTRY, AND WITHDRAWAL OF DISTILLED SPIRITS

PAR. 87. Reports covering production, entry, and withdrawal of distilled spirits will be made as provided in Regulations 3, Part Three of Regulations 7, approved March 6, 1930, and Regulations 8 and Treasury Decisions 4650, 4651, and 4683.

#### ARTICLE XVII—SOAKAGE OR ABSORPTION

PAR. 88. Whenever packages of spirits, other than alcohol produced under Title III of the National Prohibition Act, are regauged for withdrawal from warehouse, the tare of the packages may be determined by (1) taking the actual tare by weighing all of the empty packages at the time of withdrawal; (2) taking the average increase in tare by weighing not less than 20 per cent of the empty packages; or (3) adding to the original tare the estimated soakage, as hereinafter provided under the respective headings, "Taking actual tare," "Taking average tare," and "Estimated tare," except that no increase whatever in the original tare will be allowed for metallic or metal-lined packages; nor shall any allowance be made, unless actual tare is taken, or average increase in tare is determined, as hereinafter provided, for any wooden package which has been steamed or water-soaked prior to filling, or which has been previously filled, whether recharred or not, or which has been sized, paraffined; glued, or treated in any manner so as to close the pores of the wood.

PAR. 89. Where spirits are bottled in bond before tax payment or for export, the same procedure will apply except that taking the average tare by weighing not less than 20 per cent of the empty packages will not be permitted. Where actual tare is taken in the case of spirits bottled in bond before tax payment or for export, the same shall be determined in the manner set forth under the heading "Taking actual care" or by weighing the empty packages after the spirits have been dumped therefrom into the bottling tanks and thoroughly drained, but before being scraped, rinsed, or otherwise treated. Storekeeper-gaugers will not release spirits for bottling until excess losses have been tax-paid.

PAR. 90. Allowance for increase in tare by reason of soakage in the barrel does not constitute a separate or additional



allowance for loss of spirits, but must be reckoned within the amounts allowed by law for leakage or evaporation in warehouse.

PAR. 91. The option as to the method by which the tare will be determined must be exercised by the proprietor of the warehouse before the regauge, for after the increase in tare has been ascertained under the method selected it must prevail.

#### Taking Actual Tare

PAR. 92. The actual increase in tare by reason of soakage, if any, will be determined and allowance made therefor as follows: After ascertaining the gross weight, the contents of each package to be regauged for withdrawal will be temporarily removed to a separate vessel apart from all other spirits, and the empty cask weighed to determine the actual increase in its weight by reason of the absorption of spirits, if any has occurred. The proprietor of the warehouse will be required to furnish the help necessary to remove the spirits from the cask and return the same thereto. The storekeeper-gauger will personally supervise the removal of the spirits to the vessel, examine each cask to see that it is thoroughly drained before he determines its weight when empty, and personally see that the spirits are returned to the proper cask. The actual tare of each package thus emptied and weighed will be cut upon the package and entered on Form 1520 accordingly, with a notation, "Actual tare taken," written conspicuously on the form.

#### Taking Average Tare

PAR. 93. The average increase in tare will be determined by taking actual weight of not less than 20 per cent of the packages to be regauged for withdrawal. In such case packages aggregating 50 per cent, 33½ per cent, 25 per cent, or 20 per cent of the total number, depending upon the percentage of packages the proprietor desires to weigh, will be selected at random by the storekeeper-gauger, but not less than two packages may be weighed to determine the average tare of any lot of five packages or less. The actual increase in weight by reason of the absorption of spirits, if any has occurred in those packages weighed, will be determined in the same manner as provided under the heading, "Taking actual tare."

PAR. 94. The actual increase in tare of those packages weighed will be added together and divided by the number of packages weighed to get the average increase in tare for the other packages of the lot regauged. If the average tare so found contains a fraction of a pound less than twenty-five hundredths (0.25), it will be dropped; if twenty-five hundredths (0.25) or any intermediate fraction to and including seventy-five hundredths (0.75), it will be called one-half pound; if above seventy-five hundredths (0.75), it will be called 1 pound.

PAR. 95. The average of the increase in tare thus determined will be regarded as the increase of each of the remaining packages enumerated in the application for withdrawal, provided the application covers packages of spirits of the same kind and cooperage and warehoused within a period of 10 days of each other.

PAR. 96. Where spirits were produced and warehoused at proofs varying more than 10 per cent, or warehoused at periods differing more than 10 days, or if the packages containing the spirits are of different cooperage, as plain, charred, glued, or otherwise treated so as to close the pores of the wood, the weighing of empty packages must be extended to not less than 20 per cent of each kind or class of spirits as to proof, or date of entry, or gauge, and also to not less than 20 per cent of each class or description of packages, and the average thus ascertained as to each kind or class marked and entered on Form 1520 as to the unemptied packages of each kind or class of spirits, respectively. When the percentage of packages to be weighed includes any fraction, the fraction will be counted as an additional unit.

PAR. 97. For instance, if there are regauged on the same day and under one order 12 packages of whisky 5 years in warehouse, and 8 packages 4 years in warehouse, each lot of spirits being warehoused within a period of 10 days and not differing in original proof more than 10 per cent, and being contained in charred packages, not less than 3 of the 12 packages and not less than 2 of the 8 packages must be emptied and weighed. The average increase in tare of the emptied packages of each lot will be added to the marked original tare of the unemptied packages of that lot as the present tare of such packages.

PAR. 98. Again, if 29 packages of spirits, 7 years in warehouse, in glued barrels, and 21 packages of spirits, 7 years and 20 days in warehouse, in plain barrels, the spirits being warehoused at proofs differing not more than 10 per cent, are included in the same order and regauged on same day, not less than 6 barrels of the first lot must be emptied and weighed, the actual increase in weight of each, and their average increase added to the original tare of the unemptied packages of that lot, and not less than 5 barrels of the second lot, must likewise be emptied and weighed, and the actual and average increase added to the original tare, as above directed.

PAR. 99. When the average tare of packages is taken, the words "Average tare taken" will be written conspicuously on Form 1520. The actual increase in tare of the packages weighed will be entered on Form 1520 and such packages will be indicated by a star (\*) or dagger (†) placed on the same line on Form 1520 to the left of the serial number of the package. The average increase in tare calculated for the other packages will likewise be entered on Form 1520.

PAR. 100. When determining the increase in tare on packages selected for the purpose of ascertaining the average, if it is found that the increase in tare varies more than four pounds as between any two packages weighed, average tare will not be allowed on the packages to be regauged.

#### Estimated Tare

PAR. 101. Where the proprietor does not desire to have the actual tare or average increase in tare taken as herein provided, the tare will be estimated by adding to the original or marked tare the gain in weight according to the following schedule:

#### Schedule of Increase in Tare

[For packages containing 40 wine gallons or more]

CHARRED COOPERAGE		
Period of absorption		Soakage allowance
More than—	Not more than—	
		Pounds
1 day	1 day	3
1 month	1 month	6
2 months	2 months	8
4 months	4 months	10
6 months	6 months	11
8 months	8 months	12
10 months	10 months	12½
12 months	12 months	13
18 months	18 months	13½
		14
PLAIN COOPERAGE		
		Pounds
1 day	1 day	1
1 month	1 month	2
2 months	2 months	3
4 months	4 months	5
6 months	6 months	6
8 months	8 months	7
10 months	10 months	8
12 months	12 months	9
15 months	15 months	10
18 months	18 months	11
21 months	21 months	12
24 months	24 months	12½
26 months	26 months	13
66 months	66 months	14

† Maximum allowance.

PAR. 102. The period of one month is held to run from the date of any month to the day before the same date of the next month, both days inclusive. If spirits are reinspected on the next day succeeding that of original inspection, the period of absorption will be held to be one day.

PAR. 103. For packages containing, when filled, less than 40 wine gallons and not less than 20 wine gallons, regardless of the capacity of the package, the increase in tare shall be taken to be one-half of the quantities above enumerated for the respective periods named.

PAR. 104. For packages containing, when filled, less than 20 wine gallons, regardless of the capacity of the barrel, the increase in tare shall be taken to be one-fourth of the quantities above named for the respective periods mentioned, except that no allowance for soakage will be made for any package having a capacity of less than 20 wine gallons.



PAR. 105. In determining the tare for packages containing, when filled, less than 40 wine gallons, should a fraction of a pound arise less than twenty-five hundredths (0.25), it will be dropped; if twenty-five hundredths (0.25), or any intermediate fraction to and including seventy-five hundredths (0.75), it will be called one-half pound, if above seventy-five hundredths (0.75), it will be called 1 pound.

PAR. 106. The allowance for increase in tare in case of packages containing 120 wine gallons or more will be double that indicated in the schedule.

#### ARTICLE XVIII—ALLOWANCE FOR LOSS OF SPIRITS WHILE IN WAREHOUSE

PAR. 107. Whenever packages of spirits are regauged for withdrawal from internal revenue bonded warehouse, and it shall appear that there has been a loss of spirits by leakage or evaporation from any package, without the fault or negligence of the distiller or proprietor of the warehouse, allowance for the loss actually sustained will be made to the extent authorized by section 307 of the Liquor Tax Administration Act, as set forth in the following schedule, for the period the spirits have been in warehouse. Losses in excess of such quantity must be tax-paid. The period for which allowance of losses will be made begins to run from the date of original gauge as to fruit brandy, and the date of original entry into warehouse as to other spirits.

#### Schedule of Allowances for Loss by Leakage and Evaporation

Period of storage in warehouse		Maximum allowance casks of 40 wine gallons capacity or more
More than—	Not more than—	
Months	Months	Proof gallons
2	2	1.0
4	4	1.5
6	6	2
8	8	2.5
10	10	3
12	12	3.5
15	15	4
18	18	4.5
21	21	5
24	24	5.5
27	27	6
30	30	6.5
33	33	7
36	36	7.5
40	40	8
44	44	8.5
48	48	9
52	52	9.5
56	56	10
60	60	10.5
64	64	11
68	68	11.5
72	72	12
76	76	12.5
80	80	13
		13.5

PAR. 108. The period of one month is held to run from the date of any month to the day before the same date of the next month, both days inclusive. The eight years during which spirits may remain in warehouse are held to expire at the close of business on the eighth anniversary of the day next preceding that on which the original entry was made;

or, if such day falls on Sunday or a legal holiday, then on the next preceding business day.

PAR. 109. The loss allowable on casks or packages of less than 40 wine gallons capacity and not less than 20 wine gallons shall not exceed one-half the amount allowed on casks or packages whose capacity is 40 wine gallons or more, and no allowance shall be made for loss from casks or packages of less capacity than 20 wine gallons.

PAR. 110. Fractions of a gallon less than one-tenth of a gallon arising in determining the allowable loss on such packages shall be disregarded. For example, where the allowable loss is 4.75 gallons, according to the foregoing schedule, the same shall be called 4.7 gallons.

PAR. 111. Distilled spirits may not remain in internal revenue bonded warehouses more than eight years from the date of original entry therein, except that spirits which were 8 years old or more on July 26, 1936, may remain in such warehouse until lawfully removed. Allowance for loss by leakage or evaporation from packages of such spirits may be made only if determined by regauge on or before July 26, 1936, and no such allowance may be made for any period subsequent to that date.

PAR. 112. No allowance can be made under section 307 of the Liquor Tax Administration Act, or any other statute, for losses of distilled spirits by leakage or evaporation from tank cars or from storage tanks in a bonded warehouse, nor from packages filled from such storage tanks. However, where there is a deficiency of not over one-half of 1 per cent shown on regauge of spirits in a tank car or storage tank in a bonded warehouse, such deficiency will be regarded as due to a variation in gauge if there is no evidence to the contrary, and no tax will be collected thereon.

#### ARTICLE XIX—COMPUTATION OF TAX ON DISTILLED SPIRITS

PAR. 113. Section 600 (a) of the Revenue Act of 1918, as amended (section 710, Revenue Act of 1938 (Public, No. 554, Seventy-fifth Congress)), fixes the rate of tax on distilled spirits other than brandy on and after July 1, 1938, at \$2.25, and on brandy \$2.00, per proof gallon, or wine gallon when below proof, and proportionately at a like rate on fractional parts of such proof or wine gallon.

PAR. 114. In computing the tax on spirits all fractional parts of a gallon less than one-tenth shall be excluded. Thus, 40.07 proof gallons will be called 40 gallons for the purpose of taxation; 47.53 proof gallons will be called 47.5 gallons, and so on.

PAR. 115. When spirits are below proof the tax is levied on each wine gallon or fractional part thereof. For example: In case of a package of spirits, when the loss is not excessive, if the contents are found to be 44.55 wine gallons, 44.11 proof gallons, the tax will be computed on 44.5 gallons.

PAR. 116. The tax at the rate of \$2.00 per proof gallon may be readily computed by multiplying the taxable quantity by 2. For example, if the tax is to be computed on 44.5 gallons, the computation will be 44.5 multiplied by 2 equals \$89. The tax on 79.4 gallons will be computed 79.4 multiplied by 2 equals \$158.80.

To compute the tax at the rate of \$2.25 per proof gallon the taxable quantity will be multiplied by 2¼. The tax on 44.5 proof gallons would be \$100.13. The tax on 79.4 proof gallons would be \$178.65.

#### ARTICLE XX—STAMPS

##### Signing of Stamps

PAR. 117. Facsimile signatures of collectors of internal revenue may be affixed by the use of hand stamps to all stamps in which a space is provided for the signature of the collector, care being taken to use only such ink as will neither fade nor blur. The signatures of storekeeper-gaugers where required on stamps may also be affixed by the use of facsimile stamps.

##### Affixing, Canceling, and Covering Stamps

PAR. 118. By virtue of section 3322 of the Revised Statutes (U.S.C., 1934 ed., title 26, sec. 1213), the affixing, cancellation, and covering of stamps, including export stamps, placed on casks or other packages containing distilled spirits, shall be done as hereinafter provided.

##### Distilled Spirits Other Than Alcohol Produced Under Title III of the National Prohibition Act

##### Affixing

PAR. 119. When packages of spirits, other than alcohol produced under Title III of the National Prohibition Act, are withdrawn from the distillery cistern room or internal revenue bonded warehouse upon payment of tax or from such warehouse for export, the tax-paid or export stamp will be affixed and canceled by the distiller or warehouseman, under the supervision of the storekeeper-gauger, in the manner hereinafter provided, before the package is removed from the warehouse.

PAR. 120. In the case of packages the heads of which are in two or more parts, the stamp will be affixed across a joint or joints of the head in such a manner that the stamp shall rest over a joint at about the middle of the stamp, and so that the centerpiece of the head may not be removed without destroying the stamp.

PAR. 121. In affixing the stamps care will be taken to see that the surface of the head of the cask or package where the stamp is to be placed is clean and smooth and free from any paint (except metal packages) or oily substance, or any substance which would have a tendency to cause the stamp to crack or peel off, and that the paste, glue, varnish, or other material used is of good quality, strong and well-mixed, and in every way suitable for securely and permanently affixing the stamp.



PAR. 122. In affixing stamps, except as hereinafter provided, one tack or staple will be carefully driven in each corner of the stamp, and as many more as appear necessary where the stamp bears coupons rendering it irregular in shape.

PAR. 123. The stamps need not be tacked or stapled, but must be securely pasted or glued, on packages of spirits which are to be removed to the bottling-in-bond room, or to a tax-paid bottling plant for immediate bottling or to a rectifying plant for immediate bottling or dumping for rectification, when such tax-paid bottling plant or rectifying plant is in the immediate vicinity of the warehouse and owned by the proprietor of the warehouse or subsidiary, the supervisor to determine from all the circumstances in each case whether the warehouse and the rectifying or tax-paid bottling plant are in the immediate vicinity.

PAR. 124. When tacks are used they will be carefully selected, and none but those having well-set heads will be used, the size to be governed by the thickness of the head of the package to be stamped.

PAR. 125. No marks, brands, caution notices, or other devices whatsoever will be permitted on the Government head of any package other than the stamps, labels, marks, or brands required or authorized to be affixed by law and regulations.

#### Cancellation

PAR. 126. The stamp having been affixed, it must be immediately canceled. For this purpose the storekeeper-gauger will provide a stencil plate of brass or copper, in which will be cut not less than five fine parallel waved lines, long enough to extend not less than three-quarters of an inch above and below the stamp, on the Government head of the package, and the name of the storekeeper-gauger must be cut on one end of the plate, and his title, viz, "U. S. Storekeeper-gauger," and district on the other end, perpendicular to the lines. This plate must be imprinted with black, durable coloring material, over and across the stamp, as herein indicated. The stencil plate will be so set as to bring the five parallel waved lines across the stamp at such points as will least obscure the reading and so that the name of the storekeeper-gauger will appear immediately above the stamp and his title and district directly underneath the stamp. The coloring material will be so applied with the brush as to make these lines distinct, without blotting or spreading over the stamp. The stencil plates, with the edges of the cuttings of the lines, letters, and figures, will be kept clean, and the coloring material will be carefully examined to see that it is of a quality which will flow readily without spreading and will make a distinct and durable mark.

#### Covering

PAR. 127. The stamp having been affixed and canceled, it must be immediately covered with a coating of transparent varnish, shellac, or lacquer, except where the spirits are transferred to the bottling house for bottling in bond. No varnish, shellac, or lacquer will be used which is not transparent, or which is oily enough to affect in the least the paste or other adhesive on the stamp.

PAR. 128. Persons for whom spirits are gauged are required to furnish all the help needed to handle the cask or package; to furnish the paste, glue, varnish, or other adhesive, tacks, stenciling material, brushes, stencils, branding irons, vessels, and every necessary facility for the preparation of the cask or package to be put upon the market, except the instruments for proofing the spirits, and the storekeeper-gauger's canceling stencil, bearing his name, title, and district, which must be provided by the storekeeper-gauger and kept continually in his possession. The storekeeper-gauger is authorized to require such materials to be furnished and he will see that the cask or package is in every way complete for marketing when it leaves the warehouse.

PAR. 129. The stamps shall be canceled, tacked, and varnished, shellacked, or lacquered by the distiller or warehouseman under the supervision of the storekeeper-gauger.

#### Alcohol Produced under Title III of the National Prohibition Act

PAR. 130. Packages of alcohol withdrawn from industrial alcohol plants, industrial alcohol bonded warehouses, and denaturing plants will have affixed thereto prior to withdrawal appropriate stamps as required by Regulations 3. Such stamps will be affixed and canceled by the proprietor in the presence of the storekeeper-gauger. When the stamps are affixed to wooden packages they will be affixed in the same manner as tax-paid stamps are required to be affixed to packages of other distilled spirits, as herein provided. When affixed to metal packages, the stamps must be securely glued to the package, and where the packages have been painted or otherwise treated in such manner that stamps will not securely adhere thereto, the portion of the package to which the stamp is affixed must be treated with ethyl acetate or other substance to roughen the surface so that the stamp will securely adhere to the package.

PAR. 131. Such stamps will be canceled by the proprietor with a stencil plate containing at least five parallel waved lines, in the same manner as tax-paid stamps are required to be canceled on packages of other distilled spirits, as herein provided.

PAR. 132. After being affixed and canceled, the stamps will be immediately

covered with a coating of transparent varnish, shellac, or lacquer.

#### Procedure for Obtaining Tax-Paid Stamps

PAR. 133. Whenever it is desired to withdraw spirits from a distillery cistern room or internal revenue bonded warehouse on payment of tax, the procedure prescribed in Treasury Decisions 4650 and 4651 will be followed in remitting the tax to the collector of internal revenue, who will, upon receipt of such tax and accompanying papers, cut from the book stamps with the requisite coupons annexed, properly filled out and signed. Before being withdrawn from the cistern room or warehouse, the tax-paid stamps must be affixed to the packages, as herein provided, and said stamps must remain upon the packages until the spirits therein are emptied or drawn off. When emptied or drawn off, the stamps, with the other marks and brands, must be completely effaced and destroyed, as required by section 3324 of the Revised Statutes (U.S.C., 1934 ed., title 26, sec. 1217).

PAR. 134. Each tax-paid stamp shall bear the signature of the collector, who shall write or stamp thereon the date of payment of the tax, by whom paid, the number of gallons and tenths of gallons of proof-spirit, serial number of cask, and location of the distillery or warehouse. The number of taxable gallons and tenths of gallons will be entered in the proper space in the body of the stamp.

#### ARTICLE XXI—REDUCTION IN PROOF IN DISTILLERS' ORIGINAL PACKAGES

PAR. 135. Distilled spirits contained in distillers' original packages may be reduced in strength to a proof of not less than 90 degrees after having been gauged for withdrawal from the internal revenue bonded warehouse, and after having been removed from the warehouse but before removal from the premises, or after they have been removed from the premises tax-paid and are still in the possession of the proprietor at his free warehouse.

PAR. 136. The spirits will be reduced by the proprietor of the warehouse in the presence of and under the supervision of the storekeeper-gauger. The reduction must be made by the addition of pure water only to the spirits without the admixture of any other substance or material. The presence of any other material suitable for compounding spirits is not permitted on the bonded premises.

PAR. 137. Only such addition of water may be made to the body of the spirits in any package as the natural wantage of the package at the time of withdrawal will allow. No introduction of water will be permitted which would require the withdrawal of any portion of the contents of the package either before or after reduction.



PAR. 138. When spirits are to be reduced on bonded warehouse premises, the reduction must be made after the removal of the duly stamped packages from the bonded warehouse, and on the same day, at some convenient place upon the premises. Where a distillery is operated in connection with the warehouse, the reduction must not be made in or near the cistern room, the main distillery building, or any building where vessels containing spirits undergoing any of the processes of distillation are situated.

PAR. 139. In cases where such reduction is to prevail to any considerable extent, a separate room or building should be provided to be used solely for that purpose, and to be known and designated on plans and in notices as the reducing room.

PAR. 140. The proprietor of the warehouse must furnish all the help needed to handle the casks or packages, the stencil for the words and initial letters with which to make the required brand, and any other necessary implement or article. The storekeeper-gauger's canceling stencil will be used to affix his name and title.

PAR. 141. One reduction in proof of the contents of a distiller's original package having been made, no further change in proof or volume of the spirits contained in such package can be made except in case of an actual or constructive change of package.

#### *Determination of Quantity of Water Required for Reduction*

PAR. 142. The quantity of water required to reduce the spirits can be readily determined by the rules set forth in tables Nos. 4 and 6 of this Manual, the rule given in table No. 4 being perhaps the simpler.

PAR. 143. Another convenient method to determine the quantity of water required for reduction of spirits in casks is to ascertain from table No. 2 the difference in weight between the proof gallons before reduction and the same number of proof gallons after reduction, the difference being the weight of the water required to reduce the spirits. This amount can then be divided by 8.32823 (the weight of a gallon of water in air) to find the number of gallons of water required for reduction.

For example, it is desired to reduce a cask containing 35.80 proof gallons of 113 proof spirits of 100 proof. We find by table No. 2 that 35.80 proof gallons at 113 proof weighs 243 pounds and that the same number of proof gallons at 100 proof weighs 278½ pounds;  $278\frac{1}{2} - 243 = 35\frac{1}{2}$  pounds, the weight of the water required for reduction;  $35\frac{1}{2} \div 8.32823 = 4.26$ , the gallons of water necessary.

#### *Application to Reduce Proof of Distilled Spirits in the Original Package*

PAR. 144. Application for the reduction of distilled spirits contained in distillers' original packages to a proof not less than 90 degrees will be made by the proprietor of the warehouse to the district supervisor

on Form 463 in accordance with the instructions contained thereon.

#### *Regauge and Marking of Spirits after Reduction in the Original Package*

PAR. 145. When spirits are reduced at an internal revenue bonded warehouse, or free warehouse connected therewith, the storekeeper-gauger will, upon completion of the reduction, again take the proof of the spirits and the gross weight of the package and, with the marked tare, find the new wine-gallon and new proof-gallon contents. There will then be stenciled upon such portion of the Government head of the cask as shall not interfere with or in any measure obscure the other marks, brands, and stamps required to be affixed thereto, the name and title of the storekeeper-gauger, and between the name and title there shall be stenciled the words and letters following, for which he shall have sufficient space: "Proof reduced to —, G. W. —, W. G. —, P. G. —." In the blanks there will be cut or burned legibly and durably the figures denoting the new proof, gross weight, and wine gallons, and the proof gallons, so that the brand will appear, for example, thus:

R. E. Wilbur  
Proof reduced to 90  
G. W. 423, W. G. 43.63  
P. G. 39.27  
U. S. Storekeeper-Gauger  
Supervisory District No. —.

PAR. 146. In case there should not be room enough on the Government head to affix the said marks without obscuring the marks and stamps thereon, but not otherwise, the same may be applied to the other head.

#### ARTICLE XXII—COMMERCIAL OR UNOFFICIAL GAUGING BY STOREKEEPER-GAUGERS

PAR. 147. Except as required in the performance of his official duties, no storekeeper-gauger or other officer, or employee of the Internal Revenue Service shall gauge or supervise the gauging of any distilled spirits or other liquors, or reinspect any spirits reduced in proof: *Provided*, That where spirits are reduced in proof at the bonded warehouse at the time of removal, the spirits will be reinspected by the storekeeper-gauger, but no fee or other compensation shall be charged or accepted for such reinspection.

#### ARTICLE XXIII—WINE AND PROOF GALLONS DEFINED

PAR. 148. A wine gallon of any proof spirits is a standard United States gallon containing 231 cubic inches.

PAR. 149. The proof of spirits is obtained by multiplying the percentage of alcohol by volume by 2; therefore, a wine gallon containing 50 percent alcohol by volume and 50 percent water by volume would be 100 proof spirits and a wine gallon of 100 proof spirits is known as a proof gallon.

PAR. 150. A wine gallon of 190 proof spirits would be a standard United

States gallon containing 231 cubic inches of a mixture containing 95 percent alcohol by volume and 5 percent water by volume. If a wine gallon of 190 proof spirits is diluted with water so that the proof would be 100, the resulting mixture would be 1.9 standard United States gallons of 100 proof spirits; therefore, a wine gallon of 190 proof spirits is equivalent to 1.9 gallons of 100 proof spirits.

#### ARTICLE XXIV—TABLES NOS. 2, 3, 4, AND 5

PAR. 151. For the information of Government officers and others there is set forth below the rule by which tables Nos. 2, 3, 4, and 5 of this manual, showing the gallonage of spirituous liquor, according to weight and percent proof, are computed:

(a) Multiply the weight of 1 gallon of water in air at 60° F.—taken as 8.32823 pounds avoirdupois—by the specific gravity in air of the spirits in question, and the product will equal the number of pounds in 1 wine gallon of the given spirits. Divide a given number of pounds of spirits by the weight of 1 wine gallon as above determined, and the quotient will be the number of wine gallons. Multiply the wine gallons so found by the percent proof of the spirits and the products will be proof gallons.

(b) Thus, for example, if it is desired to determine the number of gallons in 400 pounds of spirits of 141 per cent proof, multiply 8.32823 by 0.88862—the specific gravity in air of the spirits found by reference to table No. 6—the product (7.40063) divided into 400 gives 54.049 wine gallons, called 54.05, which multiplied by 1.41 gives 76.21 proof gallons.

#### ARTICLE XXV—GAUGING MANUAL OF JANUARY 1934 SUPERSEDED

PAR. 152. This Gauging Manual shall, 90 days after the date of approval thereof, supersede the Gauging Manual approved September 15, 1933, and all amendments and modifications thereof.

GUY T. HELVERING,  
Commissioner of Internal Revenue.

Approved November 21, 1938.

JOHN W. HANES,  
Acting Secretary of the Treasury.

[F. R. Doc. 40-1228; Filed, March 25, 1940; 4:07 p. m.]

#### TITLE 49—TRANSPORTATION AND RAILROADS

##### CHAPTER I—INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-9]

#### IN THE MATTER OF FILING CONTRACTS BY CONTRACT CARRIERS BY MOTOR VEHICLE

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 26th day of March, A. D. 1940.

Upon further consideration of the record in the above-entitled proceeding



and of petitions filed by the Contract Carrier Division, American Trucking Associations, Inc., Kraft Cheese Company, Illinois Territory Industrial Traffic League, United States Gypsum Company, and Roemer Bros., Trucking Co., Inc., for postponement of the effective date of the order of November 6, 1939,<sup>1</sup> therein, namely, April 1, 1940, on which contracts of contract carriers filed with this Commission are to be placed in the public files of the Commission and made available for public inspection; and good cause therefor appearing:

*It is ordered*, That the effective date of said order be, and it is hereby, postponed until further order of the Commission.

By the Commission.

[SEAL]

W. P. BARTEL,  
Secretary.

[F. R. Doc. 40-1274; Filed, March 28, 1940;  
10:10 a. m.]

### Notices

#### DEPARTMENT OF THE INTERIOR.

##### Bituminous Coal Division.

[Docket No. 12]

IN THE MATTER OF PRESCRIBING DUE AND REASONABLE MAXIMUM DISCOUNTS OR PRICE ALLOWANCES BY CODE MEMBERS TO "DISTRIBUTORS" UNDER SECTION 4, PART II (H), OF THE BITUMINOUS COAL ACT OF 1937, AND ESTABLISHING RULES AND REGULATIONS FOR THE MAINTENANCE AND OBSERVANCE BY DISTRIBUTORS, IN THE RESALE OF COAL, OF THE PRICES AND MARKETING RULES AND REGULATIONS PROVIDED FOR BY SECTION 4 OF THE ACT

AN ORDER DIRECTING THE PUBLICATION IN THE FEDERAL REGISTER OF REPORT OF FINDINGS AND RECOMMENDATIONS OF THE TRIAL EXAMINER

The Examiner heretofore designated to conduct the hearings in the above-entitled matter having filed with me on March 27, 1940, in accordance with the terms of the Order for and Notice of Hearing in the above-entitled matter dated November 3, 1939, his report containing proposed Findings of Fact and Conclusions and the recommendation of an appropriate order in the premises;

*It is ordered*, That the report of the Examiner shall be published<sup>2</sup> in the FEDERAL REGISTER and copies of said report shall be available for public inspection at the office of the Division of the FEDERAL REGISTER, National Archives, at the office of the Bituminous Coal Division, 734-15th Street NW., Washington, D. C., at the offices of the Statistical Bureaus of the Division and at the offices of the District Boards.

*It is further ordered*, That copies of the report of the Examiner shall be

mailed to the parties who have filed appearances in Docket No. 12, to the Consumers' Counsel, to each District Board and to each Statistical Bureau of the Division.

Dated, March 27, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-1268; Filed, March 27, 1940;  
4:01 p. m.]

[Docket No. 12]

IN THE MATTER OF PRESCRIBING DUE AND REASONABLE MAXIMUM DISCOUNTS OR PRICE ALLOWANCES BY CODE MEMBERS TO "DISTRIBUTORS" UNDER SECTION 4, PART II (H), OF THE BITUMINOUS COAL ACT OF 1937, AND ESTABLISHING RULES AND REGULATIONS FOR THE MAINTENANCE AND OBSERVANCE BY DISTRIBUTORS, IN THE RESALE OF COAL, OF THE PRICES AND MARKETING RULES AND REGULATIONS PROVIDED FOR BY SECTION 4 OF THE ACT

AN ORDER ESTABLISHING THE PROCEDURE TO BE FOLLOWED BEFORE THE DIRECTOR IN THE ABOVE ENTITLED MATTERS

Pursuant to an order of the National Bituminous Coal Commission, dated March 12, 1938, the above entitled proceedings were instituted, for the purpose of prescribing due and reasonable maximum discounts or price allowances that may be made by code members to "distributors", as defined by Section 4, Part II (h) of the Bituminous Coal Act of 1937, and for the purpose of establishing Rules and Regulations for the maintenance and observance by such "distributors", in the resale of coal, of the prices and marketing rules and regulations provided for by Section 4 of said Act. Thereafter, pursuant to notices duly given, hearings and adjourned hearings, as to particular phases of the proceedings, were held at sundry times before the National Bituminous Coal Commission and, pursuant to notice of hearing dated November 3, 1939, before an examiner of the Bituminous Coal Division of the Department of the Interior.

On March 24, 1939, the National Bituminous Coal Commission promulgated "Rules and Regulations for the Registration of Distributions", and on June 6, 1939 and June 20, 1939, caused said "Rules and Regulations for the Registration of Distributors" to be amended.

Pursuant to and in conformity with the terms of the aforesaid notice dated November 3, 1939, the examiner of the Bituminous Coal Division, commencing on November 27, 1939, received evidence, supplementing the evidence previously adduced before the National Bituminous Coal Commission in that phase of the proceedings relating to the prescribing of due and reasonable maximum discounts that may be made by code members to "distributors", and received evidence relating to the proposed amendment to the definitions of the words "distributor" and

"carload lot" as set forth in the said Rules and Regulations for the Registration of Distributors and, thereafter, on the 27th day of March 1940, filed his report with the Director, setting forth therein proposed Findings of Fact and Conclusions.

*Now, therefore, it is ordered*, That exceptions to the said Report of the Trial Examiner may be filed with the Director of the Bituminous Coal Division, 734-15th Street NW., Washington, D. C., on or before the 15th day of April 1940. Any party to any phase of the proceedings in General Docket No. 12 may also file with the Director, within the time provided for the filing of exceptions:

- (a) a brief in support of his exceptions,
- (b) a request for oral argument before the Director which shall specifically enumerate the points to which oral argument will be addressed and set forth the amount of time desired,
- (c) a request that the Findings and Conclusions of the National Bituminous Coal Commission on any phase of the matters included in General Docket No. 12 be reviewed by the Director, which request shall be accompanied by a specific statement of the points as to which review is desired and the contentions of the parties, and may be accompanied by a brief in support thereof and a request for oral argument as described in (b).

Service of the aforesaid exceptions, briefs, and requests upon all other parties in General Docket No. 12 shall not be required. Copies of the same will be available for inspection by interested parties at the offices of the Division, 734-15th Street NW., Washington, D. C., and any party shall, upon request, furnish to any other party in General Docket No. 12 a copy of any document which he has filed.

Oral argument shall be held before the Director commencing at 10:00 o'clock in the forenoon of April 18, 1940, at Hall of Nations of the Washington Hotel in Washington, D. C.

In accordance with the provisions of Order No. 1399 of the Secretary of the Interior, which was published in the FEDERAL REGISTER in its issue of July 12, 1939 at Page 2947, and in the manner and to the extent provided by the Bituminous Coal Act of 1937, the Findings and Conclusions of the Director shall be final and the order or orders predicated thereon shall prescribe the due and reasonable maximum discounts that may be made by code members to "distributors" and shall establish the Rules and Regulations requiring the maintenance and observance by "distributors" of the prices and marketing rules and regulations provided for by Section 4 of the Bituminous Coal Act, subject only to order of the Director entered in General Docket No. 12 on December 8, 1939, pertaining to the filing of exceptions to the Findings, Conclusions, and Order of the Director with the Secretary of the Interior.

If any provision of this order conflicts with any provision of the "Rules of

<sup>1</sup> 4 F.R. 4702.

<sup>2</sup> The report was filed as a part of the original document.



Practice and Procedure before the Commission", heretofore adopted and ratified, the provisions of this order shall govern.

Dated, March 27, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-1269; Filed, March 27, 1940;  
4:01 p. m.]

## DEPARTMENT OF AGRICULTURE.

### Federal Surplus Commodities Corporation.

#### AMENDED DESIGNATION OF AREA UNDER SURPLUS FOOD STAMP PROGRAM

The designation of area under the Surplus Food Stamp Program published in the FEDERAL REGISTER on August 22, 1939, at page 3690, is amended by striking the second paragraph thereof and substituting in lieu thereof the following:

"The area within the county limits of Polk County, Iowa. The effective date for this area shall be announced by the local representative of the Federal Surplus Commodities Corporation in local newspapers of general circulation."

[SEAL]

PHILIP F. MAGUIRE,  
Executive Vice President.

Date, March 26, 1940.

[F. R. Doc. 40-1275; Filed, March 28, 1940;  
10:59 a. m.]

## DEPARTMENT OF LABOR.

### Wage and Hour Division.

#### NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued under Section 14 of the said Act and Section 522.5 of Regulations Part 522, as amended, to the employers listed below effective March 29, 1940. These Certificates may be canceled in the manner provided for in the Regulations and as indicated in the Certificate. Any person aggrieved by the issuance of any of these Certificates may seek a review of the action taken in accordance with the provisions of §§ 522.13 or 522.5 (b), whichever is applicable of the aforementioned Regulations.

The employment of learners under these Certificates is limited to the occupations, learning periods, and minimum wage rates specified in the Determination or Order for the Industry designated below opposite the employer's name and published in the FEDERAL REGISTER as here stated:

Regulations, Part 522, May 23, 1939 (4 F.R. 2088), and as amended October 12, 1939 (4 F.R. 4226).

Hosiery Order, August 22, 1939 (4 F.R. 3711).

Apparel Order, October 12, 1939 (4 F.R. 4225).

Knitted Wear Order, October 24, 1939 (4 F.R. 4351).

Textile Order, November 8, 1939 (4 F.R. 4531).

Glove Order, February 20, 1940 (5 F.R. 714).

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS, AND EXPIRATION DATE

Ann Lee Dress Company, 10 Water Street, Catskill, New York, apparel, dresses, 5 learners, October 24, 1940.

Aurora Corset Company, Aurora, Illinois, apparel, corsets, girdles, etc., 5 learners, October 24, 1940.

Brill Corset Company, 121 North 7th Street, Philadelphia, Pennsylvania, apparel, corsets, girdles, and brassieres, 3 learners, October 24, 1940.

Cluett, Peabody & Co., Inc., 1822 Murphy Avenue, Atlanta, Georgia, apparel, shirts, 5 per cent, October 24, 1940.

Eve-&-Form Undergarment Co., 123 North 13th Street, Philadelphia, Pennsylvania, apparel, ladies' silk underwear, 4 learners, October 24, 1940.

Fishman and Tobin, 728 Cherry Street, Philadelphia, Pennsylvania, apparel, boys' wash suits, 5 learners, October 24, 1940.

Fishman and Tobin, Broad and Carpenter Streets, Philadelphia, Pennsylvania, apparel, boys' wash suits, 5 per cent, October 24, 1940.

Greenebaum Bros. & Co., Inc., S. E. Corner 58th & Market Streets, Philadelphia, Pennsylvania, apparel, boys' shirts, pajamas, and underwear, 5 per cent, October 24, 1940.

H. Bomze & Brother, 3111 W. Allegheny Avenue, Philadelphia, Pennsylvania, apparel, cotton and rayon dresses, 5 learners, October 24, 1940.

Jacob Miller's Sons Co., 16th and Reed Streets, Philadelphia, Pennsylvania, apparel, men's dress shirts, 5 per cent, October 24, 1940.

Kline-Meyers Mfg. Co., Inc. (Mount Wolf Plant), Mount Wolf, Pennsylvania, apparel, shirts, 3 learners, October 24, 1940.

Kline-Meyers Mfg. Co., Inc. (Saginaw Plant), Mount Wolf, Pennsylvania, apparel, shirts, 3 learners, October 24, 1940.

LaFayette Pants Company, Fredericksburg, Virginia, apparel, pants, 5 learners, October 24, 1940.

LaFayette Pants Company, Fredericksburg, Virginia, apparel, pants, 20 learners, July 26, 1940.

McAdoo Sportswear Co., Inc., Danville, Pennsylvania, apparel, children's cotton sportswear, 35 learners, July 26, 1940.

M. Kutcher, 2147 North Warnock Street, Philadelphia, Pennsylvania, apparel, infant's dresses, 5 learners, October 24, 1940.

Middendorf Brothers, 925 Filbert Street, Philadelphia, Pennsylvania, apparel, ladies' silk and rayon lingerie, 2 learners, October 24, 1940.

R. Q. L. Shirt Company, Main Street, Richlandtown, Pennsylvania, apparel, shirts and shorts, 5 learners (learners' rate 25¢ per hour), October 24, 1940.

R. Q. L. Shirt Company, Main Street, Richlandtown, Pennsylvania, apparel, shirts and shorts, 25 learners (learners' rate 25¢ per hour), July 26, 1940.

R. Q. L. Shirt Company, Franklin Street, Quakertown, Pennsylvania, apparel, shirts and shorts, 5 learners (learners' rate 25¢ per hour), October 24, 1940.

Rose Dress Company, D and Tiego Streets, Philadelphia, Pennsylvania, apparel, children's dresses, 5 learners, October 24, 1940.

Supreme Shirt Company, 11th and Washington Avenue, Philadelphia, Pennsylvania, apparel, shirts, 5 learners, October 24, 1940.

United Mills, Inc., Mt. Gilead, North Carolina, apparel, ladies' slips, 5 learners, October 24, 1940.

United Mills, Inc., Mt. Gilead, North Carolina, apparel, ladies' slips, 25 learners, July 26, 1940.

Kooltex Knitting Mill, Inc., 4th and Walnut Streets, Mifflinburg, Pennsylvania, knitwear, underwear, polo shirts, and bloomers, 5 percent, October 24, 1940.

Krupp Manufacturing Company, Chicago, Illinois, glove, dress and work gloves and mittens, 2 learners, October 24, 1940.

Barrow Manufacturing Co., Winder, Georgia, apparel, work pants, 5 learners, October 24, 1940.

Budd & Votaw, 416 Mission Street, San Francisco, California, apparel, sport shirts and neckwear, 5 learners, October 24, 1940.

Clyde Shirt Co., Inc., 9th and Main Streets, Northampton, Pennsylvania, apparel, shirts, blouses, dresses, uniforms, 5 per cent, October 24, 1940.

Kingston Pleating & Button Co., Boston, Massachusetts, apparel, fancy stitching, covered buttons, 5 learners, October 24, 1940.

Uni Sportswear Company, Chicago, Illinois, apparel, men's sport shirts, jackets and robes, 5 learners, October 24, 1940.

Vesta Corsets, Inc., 157 Main Street, Cortland, New York, apparel, corsets, girdles, combinations, 5 learners, October 24, 1940.

Dutchess Underwear Corporation, Old Forge, Pennsylvania, knitwear, underwear, 5 per cent, October 24, 1940.

Signed at Washington, D. C., this 28th day of March 1940.

GUSTAV PECK,  
Authorized Representative  
of the Administrator.

[F. R. Doc. 40-1283; Filed, March 28, 1940;  
11:52 a. m.]



**NOTICE OF ISSUANCE OF SPECIAL CERTIFICATE FOR THE EMPLOYMENT OF LEARNERS IN THE CAP AND CLOTH HAT BRANCH OF THE APPAREL INDUSTRY**

Notice is hereby given that a Special Certificate for the employment of learners in the Cap and Cloth Hat Branch of the Apparel Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 is issued under Section 14 of the said Act, § 522.5 (b) of the Regulations Part 522, as amended, to the employer listed below effective March 29, 1940 until October 24, 1940, subject to the following terms:

**OCCUPATIONS, WAGE RATES, AND CONDITIONS**

The employment of learners in the Cap and Cloth Hat Branch of the Apparel Industry under this Certificate is limited to the following occupations, learning periods, and minimum wage rates:

- (1) A learner is a person who has had less than two hundred forty hours experience in the past three years upon a stitching operation in the Cap and Cloth Hat Branch of the Apparel Industry.
- (2) The employment of learners under this Certificate is limited to the operation of stitching machines and for two hundred forty hours for any one learner. During this period, learners shall be paid at least 25¢ per hour. If experienced workers are paid on a piece rate basis, the same piece rates shall be paid to the learners employed on similar work and they shall receive earnings on such piece rates if in excess of 25¢ per hour but in no case less than 25¢ per hour.
- (3) This Special Certificate is issued on representations by the employer that experienced stitching machine operators are not available.
- (4) This Special Certificate may be canceled as of the date of its issuance if found that experienced workers were available when the Certificate was issued and may be canceled prospectively or as of the date of violation if found that any of its terms have been violated or that experienced workers have become available. No learner may be employed under this Certificate if hired when an experienced worker was available.
- (5) Under this Special Certificate, no learner shall be employed at a subminimum wage until and unless the Certificate is posted and kept posted in a conspicuous place in the plant in which learners are to be employed.

**NAME AND ADDRESS OF FIRM AND PRODUCT**

Fit Rite Sports Headwear, 546 South Meridian, Indianapolis, Ind., 5 learners, caps and stitched hats.

Signed at Washington, D. C., this 28th day of March 1940.

GUSTAV PECK,  
Authorized Representative  
of the Administrator.

[F. R. Doc. 40-1282; Filed, March 28, 1940;  
11:52 a. m.]

No. 62—4

**FEDERAL COMMUNICATIONS COMMISSION.**

[Docket No. 5856]

**IN THE MATTER OF THE INVESTIGATION OF THE "PICK-UP" AND "DELIVERY" SERVICES OF THE TELEGRAPH CARRIERS, AND THE SCHEDULES, RULES, REGULATIONS, FACILITIES AND PRACTICES IN CONNECTION THEREWITH**

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 22nd day of March, 1940:

The Commission, having under consideration the above-described subject matter, and

It appearing, from tariff schedules on file with the Commission and the rules and regulations contained therein, and from various reports and other information on file and otherwise in the possession of the Commission, that the telegraph carriers subject to the jurisdiction of the Commission, or some of them, provide for some customers, but not for others, certain "pick-up" and "delivery" services or facilities, or make certain allowances therefor or in lieu thereof, or engage in certain practices in connection therewith, which said services, facilities, allowances, and practices are not fully provided for in the schedules, rules, and regulations published and filed with the Commission, and which said services, facilities, allowances, and practices result or may result in unreasonable discrimination, preference, prejudice, advantage, or disadvantage to some customers and classes of customers, in violation of the Communications Act of 1934,

It is ordered, That a proceeding of inquiry and investigation be and it is hereby instituted by the Commission, on its own motion, into and concerning the "pick-up" and "delivery" services of telegraph carriers subject to the Communications Act of 1934, the facilities provided and practices employed in connection therewith, and the allowances provided in lieu thereof, the charges made therefor, and the relation between the charges therefor and the costs thereof, the circumstances under which and the customers and classes of customers to which such special services, facilities, and allowances are made available, with a view to a determination by the Commission whether or not such services, facilities, allowances, and practices, or any of them, are made available to some customers and not to others under the same or similar circumstances and conditions, and whether or not there results or has resulted any unlawful refund or rebate, or any unreasonable discrimination, preference, prejudice, advantage, or disadvantage, or any other violations of the law in connection therewith.

It is further ordered, That the several telegraph carriers named in the list attached hereto be and they are hereby made parties respondent in the pro-

ceeding herein instituted and that they be and they are hereby called upon to appear at such times and places as the Commission may by subsequent orders designate, and show cause why the Commission should not find that:

1. The furnishing, free of charge to certain customers or classes of customers, and not to others, of printer tie-lines, Morse tie-lines, telephone tie-lines, messenger call boxes, pneumatic tubes, messenger service, or other service or service equipment, or the making of allowances in lieu thereof, results in unreasonable discrimination;

2. The doing of any of the things described in paragraph 1 above, except as specified in schedules duly published and filed with the Commission, constitutes an unlawful rebate or refund;

3. The classifications, regulations, and practices of the carriers in connection with the things described in paragraph 1 above, or some of them, are unreasonable or otherwise unlawful; and

4. The furnishing of special services, or special classifications of service, at special rates, such special services or classifications being conditioned upon the doing by the carriers of any of the things described in paragraph 1 above, is unreasonable, unreasonably discriminatory, preferential, prejudicial, advantageous, or disadvantageous;

and why the Commission should not enter an order or orders directing the carriers, or any of them, to cease and desist such violations of the law, or such other order or orders as may appear to be appropriate in the premises.

It is further ordered, That notice of this proceeding be served upon each of the defendants, that a copy thereof be posted in the Office of the Secretary of the Commission, and that a copy be published in the FEDERAL REGISTER.

It is further ordered, That this proceeding be designated for hearing before such Commissioner or Commissioners, examiner or examiners, and at such times and places as the Commission may hereafter direct.

By the Commission.

[SEAL]

T. J. SLOWIE,  
Secretary.

**Telegraph Carriers Respondents in  
Docket No. 5856**

The Western Union Telegraph Company, 60 Hudson Street, New York, N. Y.  
Postal Telegraph Cable Company, 67 Broad Street, New York, N. Y.

R. C. A. Communications, Inc., 30 Rockefeller Plaza, New York, N. Y.

Mackay Radio & Telegraph Company (Del.), 67 Broad Street, New York, N. Y.

Mackay Radio & Telegraph Company (Calif.), 67 Broad Street, New York, N. Y.

Globe Wireless, Ltd., 311 California Street, San Francisco, Calif.

Press Wireless, Inc., 435 North Michigan Avenue, Chicago, Ill.



Pacific Telephone & Telegraph Company, 140 New Montgomery Street, San Francisco, Calif.

Commercial Cable Company, 67 Broad Street, New York, N. Y.

Commercial Pacific Cable Company, 67 Broad Street, New York, N. Y.

All America Cables and Radio, Inc., 67 Broad Street, New York, N. Y.

French Telegraph Cable Company, 60 Broad Street, New York, N. Y.

[F. R. Doc. 40-1277; Filed, March 28, 1940; 11:16 a. m.]

## SECURITIES AND EXCHANGE COMMISSION.

### *United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 27th day of March, A. D. 1940.

[File No. 46-208]

IN THE MATTER OF THE UNITED LIGHT AND POWER COMPANY, PEOPLES POWER COMPANY, PEOPLES LIGHT COMPANY, MOLINE-ROCK ISLAND MANUFACTURING COMPANY, PEOPLES LIGHT AND POWER COMPANY

#### NOTICE OF AND ORDER FOR HEARING

An application pursuant to the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter under the applicable provisions of said Act, and the rules of the Commission thereunder be held on April 15, 1940, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 12, 1940.

The matter concerned herewith is in regard to a combined application by The United Light and Power Company, Peo-

ples Power Company, Peoples Light Company, Moline-Rock Island Manufacturing Company and Peoples Light and Power Company for the acquisition by Peoples Light and Power Company (new company) of all the assets of Peoples Power Company, Peoples Light Company, and Moline-Rock Island Manufacturing Company and the other related transactions necessary to effectuate the proposed merger.

The application states that each of the applicants will receive, in consideration of the conveyance of all its assets, common stock of the new company equal in the aggregate par value to the capital account of such applicants, plus its surplus at the date of the transfer of its assets and the assumption by the new company of all the indebtedness of such applicants.

Applicants have designated Sections 6, 7, 10, 12, and 15 of the Public Utility Holding Company Act of 1935 and the rules promulgated thereunder as applicable to the transactions hereinabove described.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 40-1279; Filed, March 28, 1940; 11:46 a. m.]

### *United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 27th day of March, A. D. 1940.

[File No. 67-8]

IN THE MATTER OF GREAT LAKES UTILITIES COMPANY

#### NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to Rule U-12B-1 promulgated under Section 12 (b) of the Public Utility Holding Company Act of 1935 having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing in such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on April 2, 1940 at 10:00 o'clock in the forenoon of that day at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a trial ex-

aminer under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 1, 1940.

The matter concerned herewith is in regard to a loan on open account in the sum of \$7,000, proposed to be made by Great Lakes Utilities Company, a registered holding company, to its subsidiary, The Ohio Gas, Light & Coke Company. Said declaration states that the money so loaned will be used by said The Ohio Gas, Light & Coke Company to assist it in meeting current obligations, said company's current cash having been depleted on account of incidental expenses incurred in converting its system from manufactured to natural gas.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 40-1278; Filed, March 28, 1940; 11:46 a. m.]

### *United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 27th day of March 1940.

[File No. 1-2797]

IN THE MATTER OF PRODUCERS CORPORATION  
COMMON STOCK, 25¢ PAR VALUE

#### ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Producers Corporation, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to the Commission to withdraw its Common Stock, 25¢ Par Value, from listing and registration on the Board of Trade of the City of Chicago; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Monday, April 29, 1940, at the office of the Securities & Exchange Commission, 105 W. Adams Street, Chicago, Illinois, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Henry Fitts, an officer of the Commission, be and he hereby is designated to administer oaths



and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 40-1280; Filed, March 28, 1940;  
11:46 a. m.]

*United States of America—Before the  
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of March, A. D. 1940.

[File No. 30-178]

IN THE MATTER OF FRANKLIN T. GRIFFITH,  
J. C. AINSWORTH, AND E. B. MACNAUGHTON,  
TRUSTEES UNDER DECLARATION OF  
TRUST DATED NOVEMBER 27, 1935

NOTICE OF AND ORDER FOR HEARING

An application pursuant to the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on April 13, 1940, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 9, 1940.

The matter concerned herewith is in regard to an application filed pursuant to Section 5 (d) of the Public Utility Holding Company Act of 1935 by the above-named trustees, a registered holding company, for an order declaring that said trustees have ceased to be a hold-

ing company. The applicants are registered as a holding company of Portland Electric Power Company, a registered holding company, Portland General Electric Company, a registered holding company, Seattle Gas Company, Portland Traction Company, Willamette Valley Railway Company, Cazadero Real Estate Company, Little White Salmon Land Company, and Portland Electric Company.

It is stated that the only property which has ever been held by said applicants as trustees, was 51,414 shares of Second Preferred Stock of Portland Electric Power Company; and, that said stock is of no present or potential value.

It is further stated that on March 6, 1940, the said applicants terminated said trust and caused the certificate representing said Second Preferred Stock to be endorsed by each of said applicants and to be surrendered to Portland Electric Power Company and requested that said stock be canceled and retired; that on March 7, 1940, the Board of Directors of Portland Electric Power Company, duly called and held a special meeting of said Board and adopted a resolution with respect to the acceptance and cancellation of said Second Preferred Stock; and, that on March 22, 1940 pursuant to said resolution of the Board of Directors of Portland Electric Power Company, the Secretary of Portland Electric Power Company did formally cancel said stock.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 40-1281; Filed, March 28, 1940;  
11:46 a. m.]

*United States of America—Before the  
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of March, A. D. 1940.

[File No. 70-17]

IN THE MATTER OF THE UNITED LIGHT AND POWER COMPANY, FORT DODGE GAS AND ELECTRIC COMPANY, PEOPLES LIGHT COMPANY, AND PEOPLES POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration and application pursuant to the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on April 12, 1940, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will

advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 9, 1940.

The matter concerned herewith is in regard to the following proposed transactions:

A loan of \$100,000 by The United Light and Power Company to Fort Dodge Gas and Electric Company, in consideration for which Fort Dodge Gas and Electric Company will issue its note or notes for the principal amount of such funds loaned, bearing interest at 6% per annum and payable two years after date of issuance.

A loan of \$475,000 by The United Light and Power Company to Peoples Light Company, in consideration for which Peoples Light Company will issue its note or notes for the principal amount of such funds loaned, bearing interest at 6% per annum and payable two years after date of issuance.

A loan of \$250,000 by The United Light and Power Company to Peoples Power Company in consideration for which Peoples Power Company will issue its note or notes for the principal amount of such funds loaned, bearing interest at 6% per annum and payable two years after date of issuance.

The combined application and declaration by the parties hereto states that the money so loaned as aforescribed will be used by the above-named operating subsidiaries to finance construction and for the reduction of open-account indebtedness.

Applicants and declarants have designated Sections 6, 7, 10, and 12 of the Public Utility Holding Company Act of 1935 and the rules promulgated thereunder as applicable to the transactions hereinabove described.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 40-1284; Filed, March 28, 1940;  
11:54 a. m.]



*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 28th day of March, A. D. 1940.

[File No. 70-17]

IN THE MATTER OF THE UNITED LIGHT AND POWER COMPANY, FORT DODGE GAS AND ELECTRIC COMPANY, PEOPLES LIGHT COMPANY, AND PEOPLES POWER COMPANY

NOTICE OF FILING OF DECLARATION

Notice is hereby given that The United Light and Power Company, a registered holding company, has filed a declaration pursuant to Rule U-12B-1 promulgated under the Public Utility Holding Company Act of 1935 relating to the following proposed transactions:

That United make a contribution of \$130,000 to the paid-in surplus of La Porte Gas and Electric Company;

That United make a contribution of \$80,000 to the paid-in surplus of Ottumwa Gas Company.

Said declaration states that the money so contributed will be used by the above named operating subsidiaries to finance construction and/or merchandise installment sales.

The declarant requests with respect to such proposed capital contributions that the Commission permit said declaration to become effective twenty days after the filing thereof, except that with respect to the capital contribution to Ottumwa Gas Company the declarant requests that said declaration become effective on April 1, 1940.

Pursuant to the provisions of Rule U-12B-1 said declaration will become effective on the fifteenth day of April 1940 or on the twentieth day after the filing of the last amendment to such declaration, if any amendments thereto be filed, unless prior to that date the Commission shall issue an order for hearing on such declaration or unless the declarant designates a later date in any amendment to said declaration or in written or telegraphic notice to the Commission, or unless the Commission shall

grant the aforesaid request of said declarant and permit such declaration to become effective with respect to the capital contribution to Ottumwa Gas Company prior to the fifteenth day of April 1940, but in no event earlier than the first day of April 1940.

Notice is given to States, State commissions, State securities commissions, municipalities, and other political subdivisions of a State, to consumers and security holders, and to representatives of consumers or of security holders, and to all other persons, of the filing of the aforesaid declaration, and any request that a hearing be held with respect to said declaration, shall be filed with the Commission not later than April 10, 1940. Any such request for hearing shall include a statement of reasons why such hearing is requested.

Pursuant to direction of the Commission.

[SEAL]

FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 40-1285; Filed, March 28, 1940; 11:54 a. m.]